United Nations A/HRC/28/44

General Assembly

Distr.: General
9 March 2015

Original: English

Human Rights Council
Twenty-eighth session
Agenda items 2 and 7
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Human rights situation in Palestine and other occupied Arab territories

Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the Occupied Syrian Golan*

Report of the Secretary-General

Summary

The present report is submitted pursuant to Human Rights Council resolution 25/28 on Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan. The report highlights new developments concerning the role of Israel in the establishment and expansion of Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem. It also analyses the difficulties faced by Palestinians in gaining access to their agricultural land and the impact of Israeli settlements on the economic, social and cultural rights of Palestinians. Lastly, it addresses the issues related to Israeli settlements in the occupied Syrian Golan, including exploitation of natural resources.

* Late submission.

GE.15-04537 (E)

1504537

Please recycle

Contents

		Paragraphs	*Page*
I.	Introduction	1 – 4	3
II.	Legal background	5 – 6	3
III.	Overview	7 – 15	4
IV.	Impact of Israeli settlements and settler violence on the human rights of Palestinians	16 – 38	7
V.	Failure to maintain public order, settler violence and lack of accountability	39 – 53	12
	A. Overview	39 – 41	12
	B. Cases of settler violence	42 – 46	13
	C. Failure to protect	47 – 49	14
	D. Accountability	50 – 51	15
	E. Attacks on Israelis, and differentiated standards of due process	52 – 53	15
VI.	Settlements in the occupied Syrian Golan	54 – 56	16
VII.	Conclusions and recommendations	57 – 60	17

I. Introduction

1. In the present report, which covers the period from 1 November 2013 to 31 October 2014, the Secretary-General addresses the progress made in the implementation of Human Rights Council resolution 25/28. In that resolution, the Council demanded that Israel, as the occupying Power, cease immediately and completely all of its settlement activities in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan. It also condemned the continuing settlement and related activities, including the expansion of settlements, the expropriation of land, the demolition of houses, and the confiscation and destruction of property. The Council called upon Israel to end human rights violations linked to the presence of settlements and to fulfil its international obligations to provide effective remedy for victims.

2. The information presented in the present report is based on monitoring and other information-gathering activities carried out by the Office of the United Nations High Commissioner for Human Rights (OHCHR) and information provided by other United Nations entities in the Occupied Palestinian Territory. The report also contains information received from Israeli and Palestinian non-governmental organizations and media sources. It should be read in conjunction with previous reports of the Secretary-General on Israeli settlements to the Human Rights Council and the General Assembly (A/HRC/20/13, A/HRC/25/38, A/63/519, A/64/516, A/65/365, A/66/364, A/67/375/, A/68/513 and A/69/348).

3. In past reports, the various types of impact of settlements on the rights of Palestinians and the key role played by the State of Israel in the creation and expansion of Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, were analysed. In his previous report on settlements submitted to the Human Rights Council (A/HRC/25/38), the Secretary-General focused on the discriminatory nature of Israeli planning policy, law and practice, which is contrary to international law and has a negative impact on the human rights of Palestinians.

4. In the present report, the Secretary-General analyses the impact of Israeli settlements and settler violence on the economic, social and cultural rights of Palestinians, and provides an update on settler violence against Palestinians and their property, as well as on the general lack of law enforcement and accountability for settlers in such cases.

II. Legal background

5. International humanitarian law and international human rights law apply, inter alia, in relation to Israeli settlements in the Occupied Palestinian Territory (A/HRC/25/38, para. 4 and A/69/348, para. 4). Israel, as the occupying Power, is bound by the Fourth Geneva Convention and the Regulations respecting the Laws and Customs of War on Land (Hague Regulations).[1] Article 49 of the Fourth Geneva Convention establishes that "the occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies". The construction and expansion of Israeli settlements, as well as other settlement-related activities such as the construction of the wall violate this provision, and are illegal under international law. This was confirmed by the Security Council in its

[1] In its Advisory Opinion on the Legal Consequences of the Construction of the Wall in the Occupied Palestinian Territory (A/ES-10/273 and Corr.1, paras. 89-101), the International Court of Justice found that, even if Israel is not a party to the Hague Regulations, they are nonetheless applicable to Israel as customary law.

resolution 465 (1980), the General Assembly in its resolution 68/82, the Human Rights Council in its resolution 25/28 and the International Court of Justice (A/ES-10/273 and Corr.1, para. 120).

6. In addition to its obligations under international humanitarian law and under customary international law, Israel, as the occupying Power, must also comply with the obligations arising from the international human rights treaties it has ratified, with respect to the Occupied Palestinian Territory, including East Jerusalem (A/HRC/25/38, para. 5). As much was confirmed by the International Court of Justice (A/ES-10/273 and Corr.1, paras. 102-113), and by the human rights treaty bodies monitoring the implementation of international human rights obligations resulting from such treaties (see CCPR/C/ISR/CO/4, para. 5, and CRC/C/ISR/CO/2-4, para. 3). The accession by the State of Palestine to several human rights treaties does not affect the obligations of Israel under international human rights law and international humanitarian law (A/69/348, para. 5).

III. Overview

7. During the period under review, Israel continued to expand existing settlements in the West Bank, including East Jerusalem, and to approve plans for new ones. According to an Israeli non-governmental organization, between 1 November 2013 and 31 October 2014, 4,554 housing units were tendered in Israeli settlements in the West Bank (2,856), including East Jerusalem (1,698), and 10,183 housing units were promoted,[2] 6,042 in the West Bank and 4,141 in East Jerusalem. As previously reported, on 4 June, the Government of Israel announced the issuing of tenders for more than 1,400 new settlement housing units in the West Bank, including East Jerusalem (A/69/348, para. 6).In September 2014, the plan to build 2,610 units in the Givat Hamatos settlement in East Jerusalem was approved by the relevant planning committee, opening the path for the issuance of tenders.[3] If constructed, it would be the first government-led new settlement in East Jerusalem since the construction of Har Homa in the late 1990s,[4] and would sever the territorial continuity between the Palestinian neighbourhoods of southern East Jerusalem and the southern West Bank.[5]

8. The Secretary-General notes the drop in the initiation of new construction in settlements in 2014 when compared to 2013,[6] a year when an exceptional amount of new construction was recorded.[7] The figures of 2014 are similar to the average number of new building projects initiated in 2011 and 2012 (250-300 housing units per quarter). The marketing of housing units in the settlements was, however, reportedly on the rise (by 866%) during the first seven months of 2014.[8]

---

[2] Peace Now uses the term "promote" to indicate support from the Government of Israel in advancing new settlement units in the multi-stage planning process.

[3] Office for the Coordination of Humanitarian Affairs, Humanitarian Bulletin Monthly Report, September 2014.

[4] Ir Amim, "Jerusalem 2014: the rising cost of peace", February 2014.

[5] Peace Now, "Why is Givat Amatos so significant?", 2 October 2014. See also Office for the Coordination of Humanitarian Affairs, Humanitarian Bulletin Monthly Report, September 2014.

[6] According to the Central Bureau of Statistics of Israel, between April and June 2014, the building of 235 housing units were initiated in Israeli settlements in "Judea and Samaria" (West Bank), as against 801 housing units started during the same period in 2013.

[7] As reported by Peace Now.

[8] Marketing of housing units denotes when Israeli authorities sign an agreement with a buyer who won a bid to construct a house or building. See Peace Now, "When marketing of units increases by 866%, CBS data shows 70% drop in construction starts", 9 September 2014.

9. New outposts were also established during the period under review.[9] Following the kidnapping on 12 June of three Israeli youths, who were later found murdered (see paras. 39 - 53 below and A/HRC/28/80/Add.1), four outposts were established in the same area where the incident took place, in the southern West Bank.[10] The media reported that some Israeli right-wing groups declared that at least one of the outposts had been established in response to the kidnapping and killing of the three Israelis.[11] The creation of the outposts was reportedly supported by the municipalities of nearby settlements, which supplied trailer homes and basic electricity and water infrastructure.[12] Two of the outposts were dismantled shortly afterwards by the Israeli authorities for being "illegal" under Israeli law. At the time of writing, the other two outposts were reportedly still in place (see A/HRC/28/80/Add.1).[13]

10. New housing units also advanced in East Jerusalem. On 27 October 2014, media reported that the Israeli Prime Minister's office had advanced plans for 660 housing units in the Ramat Shlomo settlement and 400 in the Har Homa settlement.[14] According to an Israeli non-governmental organization, the construction of additional housing units in Ramat Shlomo would reduce the buffer area between the settlement and the Palestinian neighbourhood of Beit Hanina. In early November, the Jerusalem District Planning and Building Committee approved the Ramat Shlomo plan, with the number of housing units reduced from 660 to 500.[15] New housing units in Har Homa would effectively link the areas of this settlement and Givat Hamatos (see para. 7 above).[16]

11. During the night of 29 September 2014, Israeli settlers moved into six buildings in the Palestinian neighbourhood of Silwan in East Jerusalem, below the Old City. This appears to have expanded the settler presence in Silwan by about 100 new settlers, an increase of 35 per cent. It was reported that the buildings had been purchased, although OHCHR is aware that some of the Palestinian owners are taking legal action, claiming that they did not sell their property to the settlers. It is reported that Israeli security forces allowed private security guards hired by the settlers to protect their move to the buildings in the middle of the night. At the time of writing, the Israeli Police were protecting the new settlers from possible attacks from Palestinians.[17] The new influx of settlers and the additional presence of the Israeli security forces in an area where the settlement presence has been expanding in recent years contribute to general tensions between Palestinians and Israeli settlers (A/69/348, paras. 31-32).

12. During the period under review, Israel undertook significant steps to enable further expansion of settlements. Following an earlier declaration of State land west of Bethlehem in April 2014 (ibid., para. 19), on 25 August 2014, the Israeli Civil Administration announced the declaration as State land a further 3,799 dunums (930 acres) around the settlement of Gva'ot, also in the vicinity of Bethlehem.[18] According to the Israeli media, the

[9] Outposts are settlements that, although often established with some kind of government support, are not officially recognized under Israeli law.

[10] As reported by the non-governmental organization Kerem Navot.

[11] "Settlers set up new outpost in honor of murdered teens", *Times of Israel*, 1 July 2014.

[12] Peace Now, "Alarming Developments on the Ground", 7 July 2014.

[13] Kerem Navot reported that the outposts dismantled were Ramat Ha-shlosha and Tekoa E. The remaining outposts are Givat oz Vegaon and Givat Sorek, both in the Southern West Bank.

[14] Barak Ravid and Nir Hasson, "Netanyahu orders plans be advanced for 1,060 new East Jerusalem housing units", Haaretz, 27 October 2014.

[15] Nir Hasson, "Jerusalem planners approve construction of 500 settlement homes", *Haaretz*, 3 November 2014.

[16] Ir Amim, newsletter October 2014.

[17] Peace Now, "Settlers Take Over 6 Houses in Silwan", 30 September 2014.

[18] Office for the Coordination of Humanitarian Affairs, Humanitarian Bulletin Monthly Report, June – August 2014.

declaration was made in response to the killing of the three Israeli teenagers in June 2014.[19] The affected areas are adjacent to the Green Line within the boundaries of five existing Palestinian villages. Once the process is complete (see A/69/348, paras. 18-21 and A/68/513, para. 20), it is expected that the area will be incorporated into the Gush Etzion Regional Council, possibly as a new illegal settlement.[20] This action reportedly constitutes the largest appropriation of Palestinian land in 30 years.[21]

13. The settler population continued to grow during the period under review. According to the official umbrella organization representing settlements (quoting figures obtained from the Ministry of the Interior), during the first six months of 2014, the settler population grew by 2 per cent and is expected to grow to 4 per cent by the end of the year, twice the nationwide population growth rate of Israel.[22] A report issued in 2014 indicated that, over the past two decades, the population in Israeli settlements had grown by 240 per cent, outstripping growth rates within Israel.[23] Estimates of the current settlement population in the West Bank, including East Jerusalem, range between 500,000 and 650,000 (A/HRC/25/38, para. 8).

14. In past reports, the Secretary-General noted that Israel played a leading role in the construction and expansion of settlements, including through the granting of benefits and incentives to settlers (see A/68/513). During the period under review, public funds continued to be allocated to settlements. In October 2014, the Israeli cabinet reportedly approved the allocation of some $34.7 million to the settlement division of the World Zionist Organization for the purposes of "developing agricultural and rural settlement".[24] Although it was not specified which part of this amount would be invested in settlements in the West Bank, including East Jerusalem (ibid., para. 9), it might be surmised that the final amount would be considerable, given the role of the division in assisting the Government in establishing Israeli settlements in the Occupied Palestinian Territory.[25] Reportedly, in 2012, the Government invested more per capita in settlements than within Israel, mainly for education and welfare services.[26]

15. With regard to action intended to counter the growth of settlements, the European Union decided to ban dairy and other products of animal origin produced in Israeli settlements in the West Bank, including East Jerusalem, and in the occupied Syrian Golan, which reportedly was to come into force in January 2015.[27] In a statement issued on 6 June 2014, the Working Group on the issue of human rights and transnational corporations and

---

[19] Chaim Levinson and Jack Khoury, "Israel appropriates massive tract of West Bank land", 31 August 2014.

[20] See Office for the Coordination of Humanitarian Affairs, Humanitarian Bulletin Monthly Report, June – August 2014. The Head of the Gush Etzion Regional Council is reported as having stated that "the announcement paves the way to establishing the new city of Gva'ot"; see Elior Levy and Itay Blumental, "Israel recognizes 4,000 dunam in gush Etzion as state land", ynetnews.com, 31 August 2014. According to Peace Now, Gva'ot was established as a military base in 1984.

[21] Peace Now, "Unprecedented land confiscation of 4,000 dunams near Bethlehem", 31 August 2014.

[22] Josef Federman, "Israel's settler group in the West Bank boast strong population grown", CTV news, 16 September 2014.

[23] Dr. Shlomo Swirski and Etty Konor-Atias, "Inequality in Central Government Transfers to Municipalities", Adva Center, 9 September 2014.

[24] Nimrod Bousso, "Israel to allocate $35m to World Zionist Organization's settlement division", Haaretz, 23 October 2014.

[25] See Talya Sason, Summary of the Opinion concerning Unauthorized Outposts, Israel Ministry of Foreign Affairs, 10 March 2005.

[26] Swirski et al., "Inequality in Central Government Transfers" (see footnote 23).

[27] Gianluca Mezzofiore, "EU bans Israeli dairy products made in occupied West Bank settlements from January", *International Business Times*, 10 October 2014.

other international enterprises reiterated that companies engaged in the Occupied Palestinian Territory should assess the human rights impact of their activities, also in the light of the heightened risks of negative human rights impact in a conflict-affected area, and take all necessary measures to ensure that they did not have an adverse impact on human rights, in conformity with international law and the Guiding Principles on Business and Human Rights (see also A/HRC/22/63, paras. 96-99 and 117).In 2012, the Secretary-General emphasized that the business and human rights agenda of the United Nations and the said Guiding Principles should be an integral part of global efforts to bridge existing governance gaps and safeguard protection and respect for human rights in the context of economic activities (A/HRC/21/21, para. 92).

IV. Impact of Israeli settlements and settler violence on the human rights of Palestinians

16. Israeli settlements and acts of violence committed by Israeli settlers against Palestinians continue to underpin a broad spectrum of human rights violations against Palestinians (see A/HRC/25/38, A/68/513 and A/69/348).

Denied or restricted access to agricultural land

17. As highlighted in previous reports, the access of Palestinians to agricultural lands is severely restricted and often completely denied for a number of reasons, including intimidation and attacks by Israeli settlers against Palestinians (A/67/375, paras. 19-21); physical obstacles erected by the settlers themselves (A/67/375, paras. 19-21); the imposition of military or security areas off limits to Palestinians, for instance, closed military zones and fenced-off areas around settlements (A/64/516, paras. 30-31; A/65/365, para. 16,); physical movement restrictions, such as the wall, in particular with respect to the farm lands located in the seam zone (A/65/365, para. 33); and settlement roads that impede access to agricultural lands (A/63/519, paras. 16 and 30-36).

18. In response to the difficulties faced by Palestinian farmers in gaining access to Palestinian-owned land located in fenced-off areas around Israeli settlements and in areas witnessing frequent incidents of settler violence, the Israeli authorities have, in recent years, applied the "prior coordination" regime. This mechanism allows registered Palestinian farmers to have access to their land for a limited number of days each year through settlement gates, or to work in the fields under the protection of Israeli security forces (A/67/375, para. 20). According to the Office for the Coordination of Humanitarian Affairs, about 90 Palestinian communities in the West Bank that have land inside or in the vicinity of 55 Israeli settlements and settlement outposts may have access to their land only through "prior coordination" with the Israeli authorities.[28]

19. "Prior coordination", which has mostly been applied during the olive harvest, does not prevent attacks on trees and crops, which can occur at any time (A/67/375, para. 20). Access to private Palestinian land at times when no "prior coordination" is available remains uncertain and dangerous for farmers, particularly in areas with recurrent incidents of settler violence. Another shortcoming of the mechanism is that it is mainly applied for the olive harvest, not for other harvests. In a case documented by the Office for the Coordination of Humanitarian Affairs, Israeli security forces officers refused to protect

[28] Office for the Coordination of Humanitarian Affairs, "The Impact of Israeli Settler Violence on the Palestinian Olive Harvest: The Case of Al Mughayyir Village", October 2013.

Palestinian farmers when they were picking almonds, asserting that the "prior coordination" was only for olives, even though the almond trees were in the same field.[29]

20. Furthermore, incidents have also been recorded in which Palestinian farmers have been denied access to their lands even during the time allowed by "prior coordination"; for example, on 20 October 2014, Palestinian farmers were reportedly denied access to their olive orchards located in the village of Deir Istiya (Governorate of Salfit) by security personnel from the settlement of Revava.[30]

21. Another way of restricting access of Palestinians to agricultural land is the permit regime established by Israeli authorities for access to farming land in the seam zone, the closed area located between the wall and the Green Line.[31] Israeli authorities often cite security reasons or claim that the portion of land is too small to qualify for a permit to deny Palestinians such permits (according to the Office for the Coordination of Humanitarian Affairs, in the past four years, the approval rate in the northern West Bank is 50 per cent).[32] For those who manage to obtain a permit, access is nonetheless frequently restricted. In 2013, there were 81 gates designated for access to agricultural lands in the seam zone; however, only nine of them were kept opened every day, while another nine were kept opened for only one or few more days per week. The majority (63) was kept opened only during the olive harvest season, which lasts approximately 45 days.[33]

22. Palestinian farmers also see access to their private land restricted and often denied by the civilian security coordinators and guards who operate in the Israeli settlements and outposts in the West Bank. These coordinators and guards are drawn from residents of settlements and outposts, and charged with guarding the settlements and outposts on behalf of the Israeli army.[34] They are trained and equipped with weapons by the Israel Defense Forces, and are subject to the Military Justice Law.[35] At the same time, they are appointed by and act as the representatives of the settlements. As such, the civilian security coordinators identify with the goals of their communities, the illegal settlements, which seek to expand their boundaries, even if construction is on Palestinian-owned land. OHCHR found that the lack of adequate supervision by the Israel Defense Forces and of clearly defined powers leads to daily friction between the security coordinators and the Palestinians.

23. Civilian security coordinators and guards have been granted police and law enforcement powers, including the powers to detain, search and arrest persons they deem, based on "reasonable grounds", pose a security threat, have committed or are about to commit an offence.[36] As a result, civilian security coordinators and guards have de facto a considerable margin of discretion in the conduct of their activities. As observed by Yesh Din, this has enabled them to obstruct arbitrarily the access of Palestinian farmers to their private land located in the vicinity of settlements and outposts. Reportedly, there have been

[29] Ibid.

[30] Information provided by Premiere Urgence – Aide Medicale Internationale.

[31] Office for the Coordination of Humanitarian Affairs, "10 Years since the International Court of Justice Advisory Opinion", 9 July 2014.

[32] Ibid.

[33] Office for the Coordination of Humanitarian Affairs, Humanitarian Bulletin Monthly Report, February 2014, p. 11.

[34] Military Order No. 432. See also Eyal Hareuveni, *The Lawless Zone: the Transfer of Policing and Security Powers to the Civilian Security Coordinators in the Settlements and Outposts* (Yesh Din, Tel Aviv, June 2014), pp. 4 and 11.

[35] OHCHR and the Protection Cluster, "Update on settler violence in the West Bank, including East Jerusalem", October 2014, p. 5.

[36] Hareuveni, "The lawless zone" (see footnote 34), pp. 12-13.

instances where civilian security coordinators and guards have denied Palestinians access to farming plots located nearby a settlement or an outpost to prevent alleged attacks. In addition, cases of Palestinians being injured or having their property confiscated by these bodies while attempting to gain access to agricultural plots have been reported.[37]

24. In 2009, a series of military orders defined the "guarding zones" areas, in which civilian security coordinators and guards operate, in the vicinity of settlements and outposts, in the West Bank.[38] The borders of these areas are wider than the municipal boundaries of the settlements, which allows civilian security coordinators and civilian guard squads to act beyond the jurisdiction of the settlements[39] and dramatically expands the impact of the settlements on the freedom of movement of Palestinians, as well as on their right to work their land and earn a living from it.[40]

25. The access of Palestinian farmers to their lands is also impeded by attacks and harassment by Israeli settlers. Documented cases of violence appear to be aimed at spreading fear among Palestinian farmers and to deter them from farming their lands, in particular in areas near settlements (A/67/375, para. 19). The phenomenon of settler violence, and the general failure of Israel to ensure accountability for Israeli settlers who break the law and to protect Palestinians against attacks to their person and property, have been thoroughly analysed by the Secretary-General in previous reports (A/69/348, paras. 36-44; A/HRC/25/38, paras. 37-47).

26. About two-thirds of the land in the West Bank, including the majority of Area C, is unregistered, mainly because of the suspension by Israel of the land registration process in the West Bank at the beginning of the occupation in 1968.[41] Combined with all of the above-mentioned factors that impede the access of Palestinians to agricultural land, this facilitates the dispossession of Palestinians of their land, in particular in Area C of the West Bank. An added factor in Area C is the application of the Ottoman Land Code, which establishes that unregistered land belongs to the ruling Power unless a legitimate private claim to the land arises. Entitlement for such a claim arises over unregistered land that has been cultivated without interruption for a 10-year period, in the absence of which the land is assigned to the ruling Power.[42] Given the multiple obstacles faced by Palestinians to cultivating their land, it is difficult to comply with the requirement of uninterrupted cultivation for 10 years, which would allow Palestinians to register the land in their name.[43] In the absence of land registration, Israel has subsequently claimed much of the

[37] Ibid., pp. 40-43.

[38] Ibid., pp.15-25.

[39] Ibid., p. 19.

[40] OHCHR, "Update on settler violence" (see footnote 35), p. 6.

[41] See B'Tselem, "Land grab, Israel settlement policy in the West Bank", May 2002, p. 54. According to Kerem Navot, another form of land registration regime also exists: the "first registration" or self-initiated land registration, established in 1964 under Jordanian rule, which in principle allows both Israeli settlers and Palestinians to register small portions of land in the West Bank. Owing to the expenses incurred in taxes, lawyers and the elaboration of maps required to use the register, few Palestinian farmers can afford to register their land, while Israeli settlers, often supported by settler organizations, are better placed to take advantage of it. See also B'Tselem, "Under the Guise of legality: Israel's Declarations of State Land in the West Bank", February 2012.

[42] Kerem Navot, "Israeli Settler Agriculture as a Means of Land Takeover in the West Bank", August 2013, annex II, p. 107. The Ottoman Land Code also establishes that the State may take possession of land (held on the basis of a land deed or *kushan*) that is not cultivated for three consecutive years. See also Office for the Coordination of Humanitarian Affairs, Humanitarian Bulletin Monthly Report, April 2014, and B'Tselem, "Under the Guise of Legality" (see footnote 41) pp. 25-26.

[43] Under the "first registration" or self-initiated land registration (see footnote 41).

unregistered land as government property and declared it State land.[44] Once declared State land, it is often allocated to settlements (A/69/348, para. 20).[45]

27. The above circumstances create a situation of insecurity of tenure for Palestinian landowners, which in turn create the conditions for Israeli settlers to take over land by cultivating it and eventually registering it under their name.[46]

28. According to the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security of the Food and Agriculture Organization of the United Nations (FAO), States should remove and prohibit all forms of discrimination related to tenure rights, including registration of land.[47] Furthermore, States are to recognize informal land tenure in a manner that respects existing rights and in ways that recognize the reality of the situation and promote social, economic and environmental well-being. The Palestinians, who have long been present on and have cultivated land in the West Bank, should have their legitimate tenure rights recognized and be protected against dispossession of their land. This is in line with the obligation of Israel, as the occupying Power, to protect the population in the occupied territory and their property.[48]

29. Attacks by Israeli settlers against Palestinians and their property, and the denial or restriction of access to agricultural land, undermine Palestinians' right to an adequate standard of living (A/HRC/25/38, paras. 26-29), as set out in article 11 of the International Covenant on Economic, Social and Cultural Rights, to which Israel is party. The right to an adequate standard of living encompasses the right of everyone to continuous improvement in living conditions; however, it is evident that, rather than improving, the living conditions of Palestinians are deteriorating as a consequence of Israeli settlement activities and settler violence, while the settlements continue to prosper (see A/HRC/25/38, A/68/513, A/69/348).

30. Before the occupation, agriculture was the main source of labour and resources for Palestinians. Palestinian agriculture has, however, been adversely affected by measures taken by Israel as the occupying Power, in particular land seizures and restrictions on access to land and water resources (A/68/513, para. 40). From 1965 to 1994, cultivated areas shrank by 30 per cent from 1965 to 1994, and Palestinian agricultural production was reduced, from 50 per cent in 1968 to 4.9 per cent of GDP in 2013.[49]

31. Agriculture constitutes the largest sector of the economy of Israeli settlements (A/68/513, para. 41). Settlers do not face the same restrictions as Palestinians in their access to agricultural land, and receive the protection and support of Israel. This generally allows them to invest in new technologies and more efficient farming methods, which is reflected in their productivity (A/HRC/22/63, paras. 22, 89-92; A/68/513, para. 28; A/69/348, paras. 28-32). Every year, Israeli settlers export some $285 million worth of agricultural products, against only $19 million by Palestinians.[50]

---

[44] B'Tselem, "Under the Guise of Legality" (see footnote 41), p. 33.

[45] State land is automatically placed within the settlement's regional and local councils and then allocated for settlement development or military training. Office for the Coordination of Humanitarian Affairs, Humanitarian Bulletin Monthly Report, April 2014.

[46] Using the self-initiated registration regime. Kerem Navot, "Israeli Settler Agriculture" (see footnote 42), p. 108. See also A/69/348, paras. 29-31.

[47] See also International Covenant on Economic, Social and Cultural Rights, art. 2.2.

[48] Hague Regulations, art. 43; Fourth Geneva Convention, arts. 4, 27 and 55.

[49] Emergency Water and Sanitation/Hygiene (EWASH), Fact Sheet 14, 2013; and Palestinian Central Bureau of Statistics, "Palestine in Figures 2012", March 2013.

[50] Who Profits, "Made in Israel: Agricultural Exports from Occupied Territories", April 2014.

Case study: the olive harvest

32. Almost half of the agricultural land in the Occupied Palestinian Territory (48 per cent) is planted with 8 million olive trees, with the majority located in the West Bank. The olive oil industry accounts for 25 per cent of all agricultural income of the Occupied Palestinian Territory; it is estimated that about 100,000 families depend to some extent on the annual olive harvest for their livelihood (A/HRC/25/38, para. 26).[51] Between 90 and 95 per cent of the olive harvest is used to produce olive oil. Production of olive oil depends on the yield cycle, and accordingly fluctuates between 6,000 and 34,000 tons a year.[52]

33. The restriction or denial of access for Palestinian farmers to olive orchards has a negative impact on the production of olives, in particular in areas in the vicinity of settlements, in the seam zone (where some 40,000 dunums (9,884 acres) of olive groves are located), and in those areas where incidents of settler violence are recurrent. Olive orchards require maintenance all year round. Restrictions on and delay or prevention of performance of agricultural maintenance activities have an adverse impact on productivity and value of the harvest. According to FAO, each olive grove requires a total of 133 days of work a year to adequately maintain it, including tasks such as land clearing, fertilizing, ploughing, pest control and harvesting. Owing to the restrictions imposed, most Palestinian farmers have access to their olive orchards for just a few days a year, mainly confined, through the "prior coordination" mechanism, to the harvest period, which is far less than the 133 days required to adequately maintain the orchards.

34. Restrictions on access to olive orchards located in the seam zone have a negative impact on the production and the value of the harvest. Data collected in the northern West Bank since 2010 showed that olive trees in the seam zone had a reduction in yield of between 40 and 60 per cent when compared to equivalent trees in areas where maintenance activities could be carried out freely on a regular basis.[53]

35. Settler violence also has a negative impact on Palestinian agricultural productivity. Attacks and intimidation against Palestinian farmers and the destruction of their property take place on a regular basis, affecting their rural livelihoods. According to information from the Office for the Coordination of Humanitarian Affairs, during the period under review, 8,482 Palestinian-owned trees were damaged in the West Bank, including East Jerusalem. Although there has been a reduction in the number of trees affected in comparison with 2013, the number of trees uprooted and damaged remains high.[54]

36. Settler violence usually increases during the olive harvest (A/67/375, para. 19).[55] During the first month of the olive harvest, in October 2014, 15 incidents of settler violence, resulting in damage to 277 trees, were recorded.[56] For example, on 14 October, 21 Palestinian-owned olive trees were reportedly cut and damaged by settlers from the Bait

[51] Office for the Coordination of Humanitarian Affairs, Humanitarian Bulletin Monthly Report, September 2014, p. 2.

[52] Ibid., p. 4.

[53] Ibid., February 2014, pp. 11-12.

[54] Between January and September 2014, 7,342 trees were damaged. During the same period in 2013, the number of trees affected was 8,615.

[55] See the United Nations Relief and Works Agency for Palestine Refugees in the Near East, "Olive harvest: continued settler attacks against refugee livelihoods", October 2013.

[56] In 2013, 33 incidents were reported during the whole period of the olive harvest (October – December 2013), which resulted in damage to 1,522 trees.

Ayin settlement, in the Bethlehem Governorate.[57] On 22 October, a field of olives was set alight, allegedly by Israeli settlers from the Yitzhar settlement in the Nablus Governorate.[58]

37. Statistics indicate that most attacks by Israeli settlers on Palestinian individuals and on Palestinian-owned trees reportedly go unpunished. , Of the 246 investigations opened between 2005 and 2014 monitored by Yesh Din, only four ended with an indictment and 223 were closed owing to possible investigative failures, such as a failure to identify suspects or to collect evidence.[59] The establishment of an anti-nationalistic crimes unit within the "Judea and Samaria" (West Bank) police seems to be ineffective. Out of the 35 cases of damage by settlers to Palestinian trees documented by Yesh Din in 2013, 23 cases were closed, apparently because of investigation failures, with no indictments issued.[60]

38. Physical attacks against Palestinian farmers were also recorded during the 2014 olive harvest. On 11 October, in the village of Kafr al-Labad, Tulkarem Governorate, Israeli settlers reportedly injured a 45-year-old Palestinian man and his 9-year-old son who were picking olives with their family on land that does not require prior coordination for access to it. Three Israeli settlers holding knives reportedly attacked them. The settlers allegedly stole the harvest equipment and personal belongings, and seized five sacks of olives, amounting to approximately 250 kg.[61] In another incident on the same day, a 27-year-old Palestinian woman was injured by Israeli settlers when picking olives on a grove located near the settlement of Kfar Tappuah, Salfit Governorate.[62]

V. Failure to maintain public order, settler violence and lack of accountability

A. Overview

39. The persistent and troubling phenomenon of settler violence is directly related to the continued existence, proliferation and expansion of illegal settlements inserted in and between Palestinian communities throughout the West Bank, including East Jerusalem, as described above and in previous reports of the Secretary-General (see A/69/348, paras. 36-44).

40. Settler violence is one of the clearest and most direct negative consequences of the settlements. It affects the enjoyment by Palestinians of their basic rights, including their rights to freedom of movement, an adequate standard of living, work, and education, as they face difficulty in having access to schools or their land for fear of attack by settlers (A/68/513, paras. 12-14).[63] Repeated calls by the international community for the Israeli authorities to address the problem have generally not succeeded in prompting positive action to improve the situation (CCPR/C/ISR/CO/4, para.16 and A/69/348, paras. 36-44).[64]

[57] Office for the Coordination of Humanitarian Affairs, Protection of Civilians (Weekly), 14 –20 October 2014, p. 2.

[58] Information provided by Premiere Urgence – Aide Medicale Internationale.

[59] See Yesh Din, "96.6 Percent of Investigations into Attacks on Palestinian Trees are Closed due to Police Failings. Indictments in Only Four Cases", 13 October 2014, and "Law Enforcement on Israeli Civilians in the West Bank", Yesh Din Monitoring 2005-2013, 24 July 2013.

[60] Yesh Din, "96.6 Percent of Investigations into Attacks" (see footnote 59).

[61] Information provided by Premiere Urgence – Aide Medicale Internationale.

[62] See Office for the Coordination of Humanitarian Affairs, Protection of Civilians, 30 September – 13 October, and "Settlers beat woman picking olives with her children near Salfit", Ma'an News Agency, 12 October 2014.

[63] OHCHR and the Protection Cluster, "Update on settler violence" (see footnote 35), pp. 3-4.

[64] Ibid., pp. 5-6.

Between 1 November 2013 and 27 October 2014, 207 Palestinians were recorded as injured in settler-related incidents, including 88 by settlers themselves and 119 by Israeli security forces. According to information received from OHCHR, five Palestinian fatalities were recorded in settler-related incidents, including three killed by Israeli security forces and two by Israeli settlers. During the same period, six Israelis were reportedly killed and 62 injured by Palestinians in the West Bank, including East Jerusalem (see also paras. 52-53 below).

41. In this context, Israel has repeatedly failed to prevent or halt attacks on Palestinians as it is obliged to do under international law.[65] This failure is underpinned by a long-standing lack of accountability in cases involving settlers, whether in relation to physical assaults or attacks on Palestinian property (see table below). As stated in previous reports, Israel has an obligation to bring perpetrators to justice under international human rights law (A/HRC/25/38, para. 38 and A/68/513, paras. 42-52), as a key component of ensuring protection, justice for victims and non-repetition of similar incidents.

Impact of settler violence: 2009-2014 (January to September)

	2009	*2010*	*2011*	*2012*	*2013*	*2014*
Incidents resulting in casualties	37	55	105	71	79	88
Injuries caused by settlers	106	76	144	115	121	142
Injured caused by Israeli security forces	49	204	95	42	172	79
Incidents resulting in property damage	69	145	232	183	240	166
Trees/saplings destroyed or damaged	2 075	3 910	8 033	6 565	8 615	7 342

Source: Protection Cluster in the occupied Palestinian Territory (October 2014)

B. Cases of settler violence

42. Incidents of settler violence against Palestinians and their property continued throughout the West Bank, including East Jerusalem. The kidnapping and murder of three Israeli teenagers, Naftali Fraenkel, Gilad Shaer and Eyal Yifrah, near Hebron in June 2014 sparked a wave of racist attacks by Israelis, including settlers, on Palestinians, particularly in East and West Jerusalem but also across the West Bank. This culminated in the abduction and murder by Israelis, including one settler, of Palestinian teenager Mohammad Abu Khdeir from East Jerusalem, which in turn sparked violence by Palestinians against Israelis (see A/HRC/28/80/Add.1).

43. Such cases recorded in Jerusalem included physical attacks, "price tag" hits (see A/HRC/25/38, para. 47) and damage to property. The attacks were perpetrated by both settlers and other Israelis, but were all part of an increase in attacks in Jerusalem during the period under review. In one case monitored by OHCHR, on 10 February 2014, several cars

[65] Israel has a positive obligation to protect Palestinians from settler violence and, as the occupying Power, also the obligation to maintain public order and safety in the Occupied Palestinian Territory, including by providing Palestinians with all the guarantees accorded to protected persons under international humanitarian law. Fourth Geneva Convention, in particular, arts. 4 and 27; CCPR/C/21/Rev.1/Add.13, para.8, and Hague Regulations, art. 43.

were allegedly painted with "anti-Arab" graffiti and their tyres flattened in the Palestinian neighbourhood of Silwan in East Jerusalem.

44. In another case monitored by OHCHR, on 12 April 2014, at around midnight, three Palestinians from the East Jerusalem neighbourhood of Beit Hanina went to withdraw money from an automatic teller in the adjacent Pisgat Zeev settlement. As they were leaving, they were blocked by some 25 settlers who reportedly declared that it was "a Jewish neighbourhood" and that "Arabs are not allowed in", and then severely beat them. When the settlers left, the Palestinians informed an Israeli police patrol of the incident. The police searched the area and arrested three suspects. On 13 April, the victims identified one of the alleged perpetrators among those arrested. A few days later, however, the victims, inquiring about the case, were informed that it was closed.

45. Incidents were also recorded in other areas of the West Bank. In a case monitored by OHCHR, on 23 May 2014, two Palestinians were allegedly attacked by a group of four settlers on road #457 when they stopped their car near the Ma'ale Mikhmas settlement. One was beaten with metal pipes for about 15 minutes. He suffered three fractures to his skull and spent three days in intensive care. The other Palestinian, the driver, was stabbed in the arm by one of the settlers, and wounded his hand when attempting to grab the knife. He managed to drive off to look for help. When he returned to the site accompanied by three Palestinian cars, the settlers fled the scene.

46. During the period under review, cases of Palestinians throwing stones – and in some cases Molotov cocktails – at Israeli vehicles in the West Bank, resulting in material damage and a number of injuries, were recorded. Assaults by Palestinians against Israelis, including against settlers, were also reported (see section below).

C. Failure to protect

47. The failure of Israeli forces to protect and enforce the law against settlers has been well documented (see A/HRC/25/38, paras. 42-47). While past initiatives have led to increased protection for Palestinians and their property, for the most part the violence continues unabated. Concerns persist in two primary respects: incidents in which the Israeli security forces are present at the scene of an incident involving violence by a settler, but fail to intervene to prevent or stop the attack, including by failing to make arrests; and a more general failure to provide adequate protection at known trouble spots and during periods of heightened risk.

48. Past reports included information on several cases in which Israeli soldiers appeared to stand by while settlers committed offences (A/66/364, paras. 23-25; A/67/375, paras. 30-32; A/68/348, para. 40), despite having the authority and obligation to respond in cases where the Israel Defense Forces are on the scene before the Israeli police.[66] The State Comptroller, responsible for, inter alia, auditing acts of Israeli institutions, in a report of 2013 raised similar concerns regarding the failure of the Israel Defense Forces to detain suspects and to ensure the integrity of a potential crime scene.[67]

49. Recurrent incidents of settler violence in specific geographic areas have been broadly documented.[68] Accordingly, the authorities are aware of the locations and times of year when greater protection is necessary. In 2012, the Office for the Coordination of

[66] See Yesh Din, Shadow report to the fourth periodic report of Israel, Human Rights Committee, 8 September 2014 (available from www.yesh-din.org/infoitem.asp?infocatid=628), pp. 19-20.

[67] Ibid., p. 20.

[68] See Office for the Coordination of Humanitarian Affairs, map of Palestinian communities at risk of Israeli settler violence, September 2012. See also A/69/348, paras. 38-44 and A/68/513, paras. 46-47.

Humanitarian Affairs estimated that 315,000 people in 110 communities were at high or moderate risk of settler violence.[69] They included Palestinian villages close to Yitzhar and Bracha settlements in the Nablus area where, for example, 1,974 olive trees were reportedly damaged between January 2013 and the end of September 2014.[70]

D. Accountability

50. Where there is a willingness on the part of the Israeli authorities to enforce the law, they are able to do so effectively. For example, as previously reported, following an attack by Israeli settlers on an Israel Defense Forces post on 8 April 2014 sparked by the demolition of some structures in Yitzhar settlement, the Government of Israel adopted a position of "zero tolerance" and five arrests were reportedly made (A/69/348, para. 41). The stationing of a border police company in Yitzhar appears to have led to a decrease in settler violence incidents in the surrounding Palestinian villages since May 2014.[71] Furthermore, there have been some cases of arrest of Israelis for committing "price tag" attacks,[72] an anti-nationalistic crimes unit has been created within the "Judea and Samaria" (West Bank) police, and perpetrators are now reportedly classified as belonging to "illegal associations".[73] The number of cases that actually lead to any kind of accountability is, however, negligible.[74]

51. Overall, settlers committing violent acts against Palestinians are rarely prosecuted, providing little deterrence against similar attacks. An examination of complaints of settler violence since 2005 has revealed a lack of accountability in the vast majority of cases. Indictments were served in only 72 of the 970 processed cases monitored between 2005 and 2014. A total of 887 files (or 91.4 per cent) of complaints were closed without an indictment being served, of which 593 because the "offender was unknown", 195 because of "insufficient evidence" and 76 due to the "absence of criminal culpability".[75] This reinforces a sense and culture of impunity for perpetrators, and exacerbates Palestinians' sense of insecurity and lack of confidence in the Israeli judicial system.

E. Attacks on Israelis, and differentiated standards of due process

52. According to information provided by OHCHR, between 1 November 2013 and 27 October 2014, six Israelis (including two children) were killed, and 62 were wounded in attacks committed by Palestinians - a worrying increase when compared with previous years (see A/HRC/25/38, para. 39). The means deployed to investigate such incidents appear to be greater than those for attacks against Palestinians. When the victims are Israeli, large-scale arrest and detention campaigns are typically carried out by the Israel Defense Forces throughout the West Bank, and by the Israeli police and border police in East Jerusalem, in order to apprehend the suspects (A/66/364, para. 31). By contrast,

---

[69] 31 per cent in the North, 34 per cent in the Centre and 35 per cent in the South of the West Bank; see Office for the Coordination of Humanitarian Affairs, Monthly Humanitarian Monitor, August 2012.

[70] OHCHR and the Protection Cluster, "Update on settler violence" (see footnote 35), p. 6.

[71] Ibid., p. 5.

[72] See "Seven Jewish teens arrested for 'price tag' attacks near Jerusalem", ynetnews.com, 5 May 2015, and Ben Hartman, "Husband and wife from Yitzhar arrested for Umm al-Fahm Price Tag attack", *Jerusalem Post*, 1 May 2014.

[73] See Tovah Lazaroff, "US: Price tag attacks against Palestinians 'largely un-prosecuted'", *Jerusalem Post*, 30 April 2014.

[74] See Daniel Estrin and Josef Federman, "In West Bank, teen offenders face different fates", AP, 20 April 2014.

[75] Yesh Din, "Law Enforcement on Israeli Civilians in the West Bank", November 2014.

investigations of attacks against Palestinians tend to raise serious questions about their effectiveness in bringing perpetrators to account.

53. The difference witnessed in the justice systems applied is also matter of concern. Most Palestinians accused of attacks against Israelis are tried by the Israeli military justice system, while Israeli civilians, including settlers, accused of crimes are tried by civilian courts.[76] The Israeli military court system imposed on Palestinians in the West Bank, including East Jerusalem, does not afford suspects some of the fundamental guarantees of the right to a fair trial, in particular the independence and impartiality of the tribunal (A/67/372, para. 27).

VI. Settlements in the occupied Syrian Golan

54. An estimated 21,000 Israeli settlers currently live in the occupied Syrian Golan in 33 settlements heavily subsidised by Israel. These settlements enjoy a number of financial incentives as well as a disproportionate allocation of water resources, which contributes to a higher agricultural yield for settlers. By contrast, approximately 20,000 Syrians, the majority from the Druze community, live in six villages dependent primarily on agricultural income, but disadvantaged by restricted water supplies at higher prices and fewer economic opportunities.[77] The exploitation of natural resources in the occupied Syrian Golan, in violation of international law, has continually been supported by the Government of Israel, and includes permits and licences granted to extractive multinational corporations involved in oil and gas mining (A/HRC/25/38, para. 48, and A/68/513, paras. 53-54). The Government's latest five-year development plan, announced in January 2014, aims to provide better water infrastructure systems and accelerate de-mining efforts to support settler farming communities in the occupied Syrian Golan (A/69/348).

55. The beneficiaries of such developments may include the Israeli wine industry. A total of 14 Israeli wineries, mostly founded in the late 1990s or early 2000s, are based in Israeli settlements in the occupied Syrian Golan, and produce their wine from grapes grown in the occupied territory. The oldest of the wineries based in several settlements in the occupied Golan, Golan Heights Wineries, founded in 1983, produces an estimated 5.4 million bottles of wine annually. Many of the wineries, which market their produce globally, reportedly do not label the origin of the grapes accurately on their bottles.[78]

56. The Government is also reportedly focusing on investing in education for the benefit of settlers in the occupied Syrian Golan. In August 2014, it was reported that an Israeli academic institution, Ohalo College, based in Katzrin settlement in the occupied Syrian Golan, was offering a wide range of financial incentives to prospective students in order to increase enrolments.[79] The Secretary-General reiterates that the Security Council, in its resolution 497 (1981), reaffirmed that the acquisition of territory by force is inadmissible, in accordance with the Charter of the United Nations, the principles of international law, and relevant Security Council resolutions, and decided that the decision of Israel to impose

[76] The Committee on the Elimination of Racial Discrimination recommended that Israel ensure equal access to justice for Palestinians and Israelis, including settlers; see CERD/C/ISR/CO/14, para. 27.

[77] Patrick O. Strickland, "Residents in occupied Golan Heights fear creeping Israeli presence", 12 February 2015.

[78] *Forbidden Fruit: the Israeli Wine Industry and the Occupation* (Tel Aviv, Who Profits, April 2011). On the labelling of products from settlements in the West Bank, see A/HRC/22/63, para. 99.

[79] "As world watched Gaza, Israel announced 1472 new settlements in West Bank", Mondoweiss, 30 August 2014.

its laws, jurisdiction and administration in the occupied Syrian Golan Heights was null and void and without international legal effect.

VII. Conclusions and recommendations

57. During the period under review, Israel continued to play a leading role in the establishment and the expansion of Israeli settlements in the Occupied Palestinian Territory, in violation of international law, in particular article 49 of the Fourth Geneva Convention. The settlements continue to be a central source of multiple human rights violations of Palestinians. In this context, Israel still largely fails to comply with its international obligation to protect the Palestinian population from violent acts committed by Israeli settlers, and to effectively prevent, and ensure accountability for, settler violence. Israeli policies and practices regarding access to Palestinian land have a negative impact on the rights of Palestinians, in particular their rights to an adequate standard of living and to work.

58. Israel must stop obstructing and restricting the access of Palestinians to agricultural land in the West Bank, including East Jerusalem. Disproportionate restrictions, mostly related to settlements, are putting Palestinian livelihoods at a great risk. Effective measures should be taken to ensure that Palestinians are able to have access to and cultivate their land on a continuous basis, beyond ad hoc mechanisms such as "prior coordination". In addition, security of land tenure must be ensured, including by means of measures allowing Palestinians to register without discrimination the land they have been using for long periods of time.

59. Israel, as the occupying Power, is obliged to take all reasonable measures to prevent violent attacks by Israeli settlers against Palestinians. Israel must ensure that all acts of violence committed by Israeli settlers against Palestinians and their property are investigated independently, impartially, thoroughly, promptly, effectively and in a non-discriminatory manner. Investigations should be open to public scrutiny and allow for the participation of victims. Alleged perpetrators should be prosecuted and victims should be granted an effective remedy.

60. Israel must cease all settlement activity in the West Bank and East Jerusalem, as well as in the occupied Syrian Golan, and implement relevant United Nations resolutions, including Security Council resolution 497 (1981), and withdraw from the territories occupied in 1967. Israel must also immediately cease the exploitation of natural resources from these territories.

United Nations A/HRC/28/45

General Assembly

Distr.: General
5 March 2015

Original: English

Human Rights Council
Twenty-eighth session
Agenda item 7
Human rights situation in Palestine and other occupied Arab territories

Human rights situation in the Occupied Palestinian Territory, including East Jerusalem*

Report of the Secretary-General

Summary

The present report is submitted pursuant to Human Rights Council resolution 25/29 on the human rights situation in the Occupied Palestinian Territory, including East Jerusalem. It presents an analysis of how key violations of international human rights law and international humanitarian law and abuses of human rights by all duty bearers drive the conflict and violence, and explains how an end to those violations and abuses is a key component of any enduring peace.

* Late submission.

GE.15-04318 (E)

1504318

Please recycle

Contents

		Paragraphs	*Page*
I.	Introduction	1–2	3
II.	Legal background	3–6	3
III.	Violations and abuses by all duty bearers as drivers of violence and conflict	7–72	4
	A. Introduction	7–10	4
	B. Cycles of violence and impunity	11–33	5
	C. Cycles of humanitarian crisis, deprivation and despair	34–42	11
	D. Settlements	43–47	13
	E. Arbitrary and collective measures in the West Bank, including East Jerusalem	48–58	15
	F. Palestinian disunity as a driver of conflict and human rights violations	59–66	17
	G. Conclusion	67–72	18
IV.	Recommendations	73–75	20

I. Introduction

1. The present report, submitted pursuant to Human Rights Council resolution 25/29, covers the period from 26 May 2013 to 31 October 2014. It is based primarily on monitoring and other information-gathering activities carried out by the Office of the United Nations High Commissioner for Human Rights (OHCHR) and other United Nations entities in the Occupied Palestinian Territory. It also contains information obtained from Israeli and Palestinian non-governmental organizations (NGOs), and from media sources.

2. The report does not provide a comprehensive account of all human rights concerns in the Occupied Palestinian Territory and should be read in conjunction with the reports of the Secretary-General on Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the Occupied Syrian Golan (A/HRC/28/44 and A/69/348) and other recent reports of the Secretary-General and the High Commissioner (A/HRC/28/80 and Add.1, and A/69/347).

II. Legal background

3. International human rights law and international humanitarian law are applicable in the Occupied Palestinian Territory. A detailed analysis of the legal obligations of Israel as the occupying Power, the Palestinian Authority, the de facto authorities and Palestinian armed groups in Gaza can be found in the High Commissioner's first periodic report on the situation of human rights in the Occupied Palestinian Territory (A/HRC/12/37, paras. 5–9).

4. In 2014, the State of Palestine acceded to 20 international treaties,[1] including seven of the nine core international human rights treaties.

5. By acceding to those treaties, the State of Palestine has assumed legal obligations under international law, including the obligation to report to various human rights treaty bodies. Nevertheless, Israel, as the occupying Power, remains bound by international human rights law and humanitarian law, while other relevant actors also remain bound by international law.

6. On 23 April 2014, Fatah and Hamas agreed to form a government of national consensus, which was sworn in by the President, Mahmoud Abbas, under the leadership of the Prime Minister, Rami Hamdallah, on 2 June 2014. However, from 2 June 2014 to the end of the reporting period, there remained uncertainty regarding the actual power exercised by the Government and the degree to which it or any other authority or group exercised control in Gaza. In any event, it must be recalled that those authorities or groups exercising government-like functions and effective control over territory in Gaza are bound by relevant human rights law in that territory (see A/HRC/8/17, para. 9).

[1] http://nad-plo.org/userfiles/file/fact%20sheets/Q&A%20Accession.pdf.

III. Violations and abuses by all duty bearers as drivers of violence and conflict

A. Introduction

7. The period covered by the present report spans yet another deterioration of the conflict, with increased levels of violence and widespread violations of international human rights law and international humanitarian law. That deterioration was not confined to the Gaza Strip, where an escalation in hostilities in July and August 2014 led to unprecedented, but all too familiar, destruction and bloodshed. It extended also to the West Bank, including East Jerusalem, which saw its bloodiest year for many years and a resumption of some of the harshest policies of the Israeli occupation.

8. Although the violations by all duty bearers documented by OHCHR reached levels not seen for some years, they were not new. The population in the Occupied Palestinian Territory has been subjected to those same violations to varying degrees since the beginning of the occupation in 1967, with the situation seemingly locked into an endless succession of violations, violence and impunity. Human rights violations are not just a symptom of the conflict; they drive it in an ever-worsening cycle of violence.

9. That cycle must be ended. As has been repeatedly highlighted, for there to be an enduring peace, the root causes of the conflict must be addressed. These include ending the occupation and addressing the legitimate security concerns of Israel.[2] At the same time, there can be no meaningful peace unless human rights are placed at the centre of the process. Understanding the link acknowledged in the Universal Declaration of Human Rights[3] between human rights and peace and security is essential. The former High Commissioner for Human Rights recently described how numerous conflicts had "built up over years — and sometimes decades — of human rights grievances".[4] The Security Council has highlighted that any comprehensive approach to conflict prevention includes strengthening "respect for, and protection of, human rights".[5] Ending the cycle of conflict and violence means addressing past, present and future violations of human rights.

10. The Security Council has also stressed "the importance of accountability in preventing future conflicts, avoiding the recurrence of serious violations of international law, including international humanitarian law and human rights law" and ensuring an end to impunity for such violations.[6] Alongside accountability, other efforts to address the current human rights situation are needed. The Secretary-General, in his Human Rights Up Front initiative, has suggested that human rights information can be a powerful tool in shaping effective responses to conflict with "transformational impact".[7] There is no shortage of comprehensive reports setting out the human rights situation in the Occupied Palestinian Territory. It is time for that information to be acted upon. It is only by addressing the human rights issues set out in the present and numerous previous reports that the Occupied Palestinian Territory can be set on a more hopeful course. If left unaddressed, they will only serve to aggravate the conflict.

---

[2] See S/PV.7291.

[3] The preamble states that "it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law".

[4] See S/PV.7247.

[5] Security Council Resolution 2171 (2014), preamble.

[6] Ibid., preamble.

[7] www.un.org/apps/news/infocus/sgspeeches/statments_full.asp?statID=2068#.VGoFO7ccSB8.

B. Cycles of violence and impunity

Escalations in Gaza

11. During the reporting period, active hostilities again flared up between Israel and Palestinian armed groups in Gaza. An increase in hostilities could be observed from the second half of 2013,[8] with 13 Palestinians, including a 3-year-old girl, and one Israeli killed during the period between 26 May 2013 and 6 July 2014.[9] On the night of 7 July, Israel launched a military operation in Gaza. Over the next 51 days, until a sustained ceasefire on 26 August, the parties engaged in intense hostilities, causing damage and destruction on an unprecedented scale in Gaza.

12. According to information gathered by the Protection Cluster[10] as of 1 December 2014,[11] a total of 1,549 Palestinian civilians, including 306 women and 539 children, had been killed. Palestinian Ministry of Health figures indicate that 11,231 Palestinians, including 3,540 women and 3,436 children, had been injured.[12] Almost 22,000 housing units, home to an estimated 132,000 people, had been totally destroyed or so severely damaged as to be uninhabitable.[13] At the height of the escalation, approximately 500,000 Palestinians, more than a quarter of the entire population in Gaza, were internally displaced.[14]

13. Between 8 July and 26 August, Palestinian armed groups fired 4,881 rockets and 1,753 mortars towards Israel.[15] According to official Israeli sources, 66 soldiers and six civilians were killed, while 369 soldiers and civilians were injured during the fighting or as a result of rocket attacks.[16]

14. The 2014 escalation, together with previous large-scale escalations in 2008/09 and 2012 and sporadic violent escalations in between, form part of a recurrent pattern of serious violations of international humanitarian law and international human rights law by all parties. Each escalation involved significant loss of life; in each case, civilians have paid a heavy price in terms of fatalities, injuries and suffering.

---

[8] See the report of the Secretary-General on Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem (A/69/347), paras. 40–43.

[9] Source: Al-Mezan Centre for Human Rights (figures do not include casualties in the access-restricted areas (see paras. 18–20 below)); United Nations Department of Safety and Security (UNDSS); A/69/347, paras. 40–43.

[10] The Protection Cluster is the mechanism for coordinating humanitarian action by United Nations and non-United Nations humanitarian organizations working in the protection sector. It is one of several such sectoral clusters. OHCHR leads the Protection Cluster in the Occupied Palestinian Territory. For more information on the cluster system, see www.ochaopt.org/content.aspx?id=1010056. The casualty figures are subject to ongoing verification.

[11] Updated figures outside the reporting period are provided where available.

[12] www.moh.ps/attach/761.pdf.

[13] Source: Shelter Cluster.

[14] www.ochaopt.org/documents/ocha_opt_sitrep_26_08_2014.pdf and www.ochaopt.org/documents/gaza_mira_report_9september.pdf.

[15] Source: UNDSS.

[16] www.shabak.gov.il/English/EnTerrorData/Reports/Pages/Monthly0814.aspx; www.shabak.gov.il/English/EnTerrorData/Reports/Pages/Monthlysummary%E2%80%93July2014.aspx; www.idfblog.com/blog/2014/07/19/fallen-soldiers-operation-protective-edge/; and http://mfa.gov.il/MFA/ForeignPolicy/Terrorism/Victims/Pages/In%20Memory%20of%20the%20Victims%20of%20Palestinian%20Violence%20a.aspx.

Comparative fatalities, injuries and displacement in Gaza escalations

	2008/09	*2012*	*2014*
Fatalities in Gaza Strip	Between 1387 and 1417	174	2256
Fatalities in Israel/of Israelis	13	6	72
Injuries in Gaza Strip	5300	Between 900 and 1500	11231
Injuries in Israel/of Israelis	918	239	369
Peak number of displaced persons in Gaza Strip	Approx. 90000	Approx. 27000	Approx. 500000
Houses severely damaged or destroyed in Gaza Strip	6,228	382	21921
Houses partially damaged in Gaza Strip	56646	Approx. 8000	91445
Houses damaged or destroyed in Israel	No data[a]	80	No data

Sources: http://shelterpalestine.org/Upload/Doc/0804b125-6e13-49ea-830f-8da090c9c64f.pdf; http://shelterpalestine.org/Upload/Doc/8c3ade5f-b82a-4ae7-bf90-cf93719a970f.pdf; www.shelterpalestine.org/Upload/Doc/8dd754f95-b24d-4aeb-80c2-1f4cae79e6ee.pdf

[a] See A/HRC/12/48, paras. 1,659–1,661.

15. After the 2008/09 escalation, the report of the United Nations Fact-Finding Mission on the Gaza Conflict (the Goldstone Report) concluded that Israel, the responsible Palestinian authorities and Palestinian armed groups had committed violations of international human rights law and international humanitarian law, some amounting to "war crimes" and "crimes against humanity" (A/HRC/12/48, paras. 311–1772). Similarly, in relation to the Israeli military operation in November 2012, OHCHR documented violations of international law committed by both the Israel Defence Forces and Palestinian armed groups (A/HRC/22/35/Add.1). Numerous allegations of violations of international human rights law and international humanitarian law were documented by OHCHR during the 2014 hostilities. Those findings are presented in an addendum to the High Commissioner's annual report on the Occupied Palestinian Territory (A/HRC/28/80/Add.1). As noted in the addendum, those alleged violations can only be distinguished from the alleged violations documented in relation to the previous escalations in Gaza by their elevated number and devastating impact. It will fall to the independent commission of inquiry established under Human Rights Council resolution S-21/1 to investigate those allegations in full.

16. The alleged violations, documented by OHCHR in 2014, mirror those documented and investigated in 2008/09 and 2012, thereby underscoring the recurrent nature of the violations in Gaza and the failure of efforts to prevent their repetition. They included serious concerns about targeting decisions taken by Palestinian armed groups; indiscriminate attacks; respect for distinction and proportionality; locating military objects in civilian buildings; launching rockets from densely populated areas; and execution of suspected collaborators.[17] The United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) also confirmed that weapons had been placed in vacant UNRWA schools during the 2014 escalation, in breach of the inviolability of United

[17] A/HRC/12/48, paras. 439–498; A/HRC/22/35/Add.1, paras. 32–45.

Nations premises.[18] In relation to Israel, there are serious concerns with regard to the alleged failure of the Israel Defence Forces to respect the legal principles of distinction, proportionality and precaution in attack. Those concerns arise in the context of targeting decisions; the taking of all necessary precautions; the proportionality of the attacks; respect for the distinction between civilians and civilian objects and military objectives, especially during the ground operation; attacks on and close to schools, including those used as shelters for the displaced; attacks on hospitals, ambulances and ambulance staff; and the alleged arrest and transfer of Palestinians from Gaza to Israel during the ground operation.[19]

17. Following the ceasefire on 26 August, OHCHR observed a significant decrease in violence, recording no deaths, six rockets fired and no air strikes as of 24 October 2014. The limited ceasefire which, as in the case of each previous escalation, ended the 2014 escalation, involved some easing of the restrictive measures on the movement of people and goods from and into Gaza. Each ceasefire agreement has consistently failed to address the root causes of the conflict, namely the prolonged occupation of the Occupied Palestinian Territory, the blockade with its negative impact on enjoyment of economic, social and cultural rights, and the lack of accountability for violations of international human rights law and international humanitarian law. The agreements have served merely to paper over the cracks of the conflict, which has continued to simmer before re-erupting in yet more violence and yet more violations of international law.

Enforcement of the access-restricted areas

18. Between 25 May 2013 and 6 July 2014, a total of seven people were shot and killed and 131 were injured in the access-restricted areas on the Gaza side of the fence erected by Israel around the Gaza Strip.[20] In some incidents, shooting occurred in circumstances that, according to information available to OHCHR, posed no threat to the soldiers. For example, on 24 January 2014, the Israel Defence Forces shot and killed a 19-year-old Palestinian while he was taking photographs a few hundred metres away from the fence in Beit Lahia, northern Gaza.

19. Similar violations occurred at sea, where Israeli naval forces continue to restrict the access of Palestinian fishermen to fishing waters. Between 25 May 2013 and 6 July 2014, one fisherman was killed and 13 others were injured. Israeli naval forces arrested approximately 46 fishermen, confiscated 20 boats and damaged six boats during the reporting period.[21]

20. Despite an expansion of the fishing limit off the Gaza shore from three to six nautical miles, reportedly under the terms of the ceasefire agreement,[22] as of 24 October 2014, at least one fisherman had been injured, 13 arrested, four boats confiscated and one boat destroyed.[23] Israel resumed its enforcement of the access-restricted areas in the same manner as before the 2014 escalation, by using lethal force. Several incidents of shooting at Palestinians close to the fence were reported between 26 August 2014 and 25 October 2014, with seven civilians injured in the access-restricted areas.[24]

---

[18] www.unrwa.org/newsroom/press-releases/unrwa-strongly-condemns-placement-rockets-school.

[19] A/HRC/12/48, paras. 499–1344; A/HRC/22/35/Add.1, paras. 11–31; A/HRC/28/80/Add.1, paras. 32–65.

[20] Source: OHCHR.

[21] Source: OHCHR.

[22] www.reuters.com/article/2014/08/26/us-mideast-gaza-ceasefire-details-idUSKBN0GQ1XQ20140826.

[23] Source: OHCHR.

[24] Source: OHCHR.

Excessive use of force by Israeli security forces in the West Bank, including East Jerusalem

21. Palestinian fatalities in incidents involving the Israeli security forces in the West Bank, including East Jerusalem, soared during the reporting period. There were 67 Palestinian fatalities, compared to 22 in the same period in 2012/13.[25] During 2014, as at 31 October, there had been 48 fatalities.[26]

22. The Secretary-General and the High Commissioner have frequently raised concerns about the excessive use of force by Israeli authorities, particularly as casualties have spiked.[27] Concerns that the rules of engagement are either not compliant with international human rights law, or are not being respected or enforced, are heightened by the dramatic increase in injuries from live ammunition. During the reporting period, 1,276 Palestinians were injured by live ammunition out of 5,799 injured in total, compared with 175 out of a total of 4,884 in the equivalent period for 2012/13.[28]

23. Those incidents are both a cause and consequence of the conflict and of further human rights violations. They fuel violence and foster distrust and hostility between the Israeli security forces and the Palestinian population they are in the Occupied Territory to protect. In many cases monitored by OHCHR, the funeral of someone killed in that manner was followed by clashes between Palestinians and the Israeli security forces in which more people were injured and some sometimes killed, in a seemingly endless cycle of violence and tension. Examples include a series of incidents documented by OHCHR involving injuries from live ammunition, the victims of which were Palestinians from al-Jalazun refugee camp in the West Bank in September and October 2013,[29] and the case of a 13-year-old boy who was allegedly beaten by the Israeli security forces on 8 September 2014 after attending the funeral of Mohammad Sonnokrot in East Jerusalem.[30]

Attacks by Palestinian armed groups and individuals on Israelis

24. Violent attacks by Palestinians on Israelis also continue to occur throughout the West Bank, including East Jerusalem. During 2013, the Internal Security Agency of Israel recorded 5 fatalities, including 3 soldiers, and 44 injured persons, including 29 security personnel, in attacks on Israelis in the West Bank, including East Jerusalem.[31] Violence against Israelis has also been notable with the abduction and murder of three Israeli teenagers in June 2014,[32] but also the shooting of a 46-year-old man near Idhna, in the southern West Bank[33] and an alleged car attack on a light rail station in Jerusalem on 22 October 2014 which resulted in the death of one Israeli infant and an Ecuadorian woman.[34]

---

[25] Source: Office for the Coordination of Humanitarian Affairs (OCHA)/OHCHR.

[26] Sources: OHCHR/OCHA. Fatality figures do not include one Palestinian killed in Mea Shearim in Jerusalem on 4 August 2014 and one Palestinian child killed by unexploded ordnance in Tubas on 11 August 2014; A/HRC/28/80/Add.1.

[27] A/69/347, paras. 44–51; A/HRC/25/40, paras. 6–14.

[28] Source: OCHA.

[29] A/HRC/25/40, para. 8.

[30] Mr. Sonnokrot died as a result of injuries sustained in an incident involving the Israeli security forces in Wadi Joz, East Jerusalem, on 31 August 2014. OHCHR has expressed concerns about the legality of the use of force in that incident.

[31] www.shabak.gov.il/English/EnTerrorData/Reports/Pages/2013AnnualSummary.aspx.

[32] A/HRC/28/80/Add.1, paras. 6–22.

[33] www.btselem.org/israeli_civilians/20140415_israeli_civilian_killed_by_palestinian_gunfire_near_idna.

[34] Source: OHCHR.

25. The abduction and murder of the three Israeli youths had a very damaging impact and contributed to the serious deterioration in the human rights situation across the Occupied Palestinian Territory. Attacks such as those drive the conflict and foment division, making Israelis feel unsafe and prompting further attacks by settlers and others. They fuel a political discourse in Israel that demands harsh measures against the Palestinian population, as was evident during the summer of 2014.[35] Whilst Israel must act to maintain law and order, such actions must be grounded in respect for human rights. As the Security Council has underlined, failing to comply with human rights and other international legal obligations contributes to "increased radicalization and fosters a sense of impunity".[36]

Impunity and the failure to ensure accountability

26. At the General Assembly on 6 August 2014, the former High Commissioner for Human Rights stated that it was "a terrible failure for humanity not to act to avert yet another devastating crisis in Gaza" and highlighted how the "need for investigation and accountability" raised in the aftermath of the 2008/09 and 2012 escalations had "not been met".[37] The Secretary-General and the United Nations Special Coordinator for the Middle East Peace Process have also stressed the importance of accountability on all sides.[38] Yet the failures of the past do not bode well for the future, with impunity prevailing despite the fact that numerous violations of international humanitarian law and international human rights law have been documented.

27. The Goldstone Report highlighted the defects in the investigative mechanisms in respect of both Israel and the Palestinian authorities in Gaza.[39] Many of those concerns were echoed by the committee of independent experts appointed to monitor investigations on both the Israeli and Palestinian sides into the 2008/09 escalation, which found that accountability measures on both sides were severely lacking.[40] Thereafter, according to the Israeli NGO B'tselem, at least 52 military police investigations were opened, with only three investigations ending with indictments, resulting in the conviction of four soldiers.[41] Of the sentences handed down, the longest was 15 months of imprisonment for credit card fraud.

28. Following the November 2012 escalation, OHCHR called on all duty bearers to ensure accountability for violations of international law.[42] In April 2013, the Israeli Military Advocate General stated that it found no basis for opening military police investigations into approximately 65 incidents it had examined and that the cases would be closed. As of 31 October 2014, decisions were still pending in approximately 15 outstanding incidents. Two fact-finding committees were formed to investigate specific incidents, according to the latest available information, but as at 31 October 2014, no criminal investigations had yet been opened.[43] Additionally, OHCHR is aware of only one investigation into an incident

[35] A/HRC/28/80/Add.1.

[36] S/RES/2178 (2014), preamble.

[37] www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14921&LangID=E#sthash.2CDohR7N.dpuf.

[38] S/PV.7266.

[39] A/HRC/12/48, paras. 1957–1966.

[40] A/HRC/15/50; A/HRC/16/24.

[41] www.btselem.org/accountability/20140905_failure_to_investigate; also The Public Commission to Examine the Maritime Incident of 31 May 2010 (Turkel Commission), Second Report, p. 345.

[42] A/HRC/22/35, paras. 66–75.

[43] www.law.idf.il/SIP_STORAGE/files/1/1381.pdf; www.pchrgaza.org/portal/en/index.php?option=com_content&view=article&id=10103:concerning-qpillar-of-defenseq-victims-for-the-first-time-israeli-committee-headed-by-general-doron-almog-initiates-investigation-in-a-case-followed-up-by-

involving the use of force by Israeli security forces in the access-restricted areas in Gaza: an investigation opened in March 2014, almost four years after the incident, into the killing of a fisherman in 2010.

29. During the latest Israeli military operation in Gaza, the Israel Defence Forces Chief of Staff ordered the establishment of a general staff mechanism for fact-finding assessments to examine "exceptional incidents" that had occurred during "Operation Protective Edge".[44] The mechanism was established in response to and as part of the implementation of the recommendations of the Turkel Commission.[45] It is hoped that it will lead to meaningful accountability.

30. On the Palestinian side, the lack of accountability is also stark. OHCHR is not aware of any steps taken by the relevant Palestinian authorities to bring perpetrators to justice in response to the Goldstone Report. Nor is OHCHR aware that any measures have been taken by the authorities in Gaza to ensure accountability for violations in relation to the November 2012 escalation, including the direct targeting of civilians and indiscriminate firing of rockets.[46]

31. Those failures are not confined to the situation in Gaza. Both the Secretary-General and the High Commissioner have repeatedly highlighted the failure to ensure accountability and an adequate remedy for victims across the Occupied Palestinian Territory, including victims of killings and injuries involving Israeli security forces in the West Bank, including East Jerusalem.[47] Under international human rights law, all incidents of killings and serious injury must be promptly, thoroughly, effectively, independently, impartially and transparently investigated.[48] However, as outlined in previous reports of the Secretary-General and highlighted by the Human Rights Committee, Israel has not met its obligations in that regard.[49]

32. The ongoing impunity that prevails is in clear violation of the obligations of the duty bearers, and the repercussions are felt as each side commits the same or similar violations again and again, safe in the knowledge that they will not be brought to justice.

33. The fact that the Israeli authorities and the Israeli security forces, as well as relevant Palestinian authorities and Palestinian armed groups, are never held to account for violations undermines the protective force of international law. The resulting enmity and lack of trust drives violence. As the former High Commissioner has highlighted, "adherence to international humanitarian law and international human rights law, and ensuring accountability for violations, are essential prerequisites for any lasting peace".[50]

---

pchr&catid=36:pchrpressreleases&Itemid=194.

[44] www.mag.idf.il/261-6858-en/Patzar.aspx.

[45] The Turkel Commission, established to investigate the May 2010 Gaza flotilla raid, was mandated to review Israeli mechanisms for investigating alleged violations of the laws of armed conflict, and made recommendations to strengthen those mechanisms.

[46] A/HRC/25/40, paras. 58–60.

[47] A/69/347, paras. 52–69; A/HRC/25/40, paras. 50–56.

[48] Human Rights Committee, general comment No. 31 (2004) on the nature of the general obligation imposed on States parties to the Covenant, para. 15.

[49] A/69/347, paras. 52–69; CCPR/C/ISR/CO/4, para. 13.

[50] Statement by Navi Pillay at the Informal Plenary Meeting of the General Assembly on the situation in Gaza, 6 August 2014. Available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14921&LangID=E.

C. Cycles of humanitarian crisis, deprivation and despair

Humanitarian impact of hostilities and the blockade

34. The blockade that Israel has imposed on Gaza, as consistently documented by the Secretary-General and the High Commissioner,[51] contravenes international law and has further impoverished the population. Its continued imposition runs counter to the measures that are essential to ensure that Palestinians can enjoy human rights, including economic, social and cultural rights that can provide a bedrock for resolution of the conflict.[52] In that connection, the United Nations Special Coordinator for the Middle East Peace Process highlighted in August 2014 the importance of not leaving Gaza "in the condition it was in before this latest escalation" and how "the restrictions on the [Gaza] Strip on the exit and entry of goods and people will continue to fuel instability, underdevelopment and conflict".[53]

35. Some efforts have been made in that regard. On 14 October 2014, within the framework of the Gaza Reconstruction Mechanism, the first shipment of materials for private construction reportedly entered Gaza.[54] There has also been some easing of movement restrictions since the 26 August 2014 ceasefire, including allowing increased numbers of family members to visit Gaza detainees and the granting of permission for the Palestinian Government of National Consensus to move between the West Bank and Gaza.[55] However, those measures are insufficient to address the level of destruction caused during the escalation, particularly to the housing sector. Furthermore, they are no replacement for the lifting of the blockade, which is now more urgently needed than ever. The decision of Egypt to close the Rafah crossing on 24 October 2014, following a reported suicide attack on Egyptian troops in Sinai, has exacerbated the situation, and the movement of goods from and into Gaza remains severely restricted. Gaza imports for the whole of the year 2014 are still on average at 30.6 per cent of the level they were at prior to the blockade.[56]

36. During the recent hostilities, some 13,529 houses were destroyed and 8,392 were severely damaged,[57] exacerbating an existing housing shortage generated by previous escalations.[58] Approximately 4,000 truckloads of cement aggregates and iron bars are required per day to meet the construction demands.[59] Construction materials are necessary, not just for the economic recovery and development of the Gaza Strip, but also for the

---

[51] A/69/347, paras. 30–34; A/HRC/25/40, paras. 24–30.

[52] The Security Council has highlighted the need to address the root causes of conflict, including through poverty eradication. See Security Council resolution 2171 (2014), preamble.

[53] S/PV.7243.

[54] Under the Gaza Reconstruction Mechanism, the Government of Palestine is to take the lead in the Gaza reconstruction process while addressing the security concerns of Israel. See the Protection of Civilians Weekly Report 14–20 October 2014 of the Office for the Coordination of Humanitarian Affairs. Available from www.ochaopt.org/documents/ocha_opt_protection_of_civilians_weekly_report_2014_10_24_english.pdf.

[55] http://gisha.org/updates/3498 and http://gisha.org/updates/3614.

[56] www.ochaopt.org/documents/ocha_opt_protection_of_civilians_weekly_report_2014_10_31_english.pdf.

[57] www.shelterpalestine.org/Upload/Doc/8dd75495-b24d-4aeb-80c2-1f4cae79e6ee.pdf.

[58] www.shelterpalestine.org/Upload/Doc/f504f516-502c-4000-9372-bc72aca186f0.pdf.

[59] Office for the Coordination of Humanitarian Affairs, Protection of Civilians Weekly Report 14–20 October 2014. Available from www.ochaopt.org/documents/ocha_opt_protection_of_civilians_weekly_report_2014_10_24_english.pdf.

employment of thousands of construction workers who have lost their livelihoods. It is worth noting that nearly half of the US$ 5.4 billion pledged at a donors' meeting in Cairo on 12 October 2014 were for reconstruction in Gaza.[60]

37. As at 20 October 2014, an estimated 42,500 internally displaced persons continued to take refuge in 18 UNRWA schools, with 47,000 more being hosted by their relatives.[61] Internally displaced persons are in need of shelter, food, water and sanitation, and also psychosocial support and protection.

38. Humanitarian conditions in Gaza continue to be compounded by the limited availability and accessibility of utilities, including potable water and electricity. Before the 2014 escalation, some 90 per cent of Gaza's water from its coastal aquifer was considered undrinkable without treatment.[62] Most areas experienced power cuts of 12 hours a day; they have increased to 18 hours daily after the conflict and the attack by Israel on the Gaza power station.[63] Economic recovery remains stagnant, resulting in high unemployment, food insecurity and reliance on food aid, with 830,000 people receiving food aid from UNRWA. That has consequences for the health of the Gazan population — even prior to the recent escalation, 35.8 per cent of pregnant women and 33.7 per cent of infants were suffering from anaemia.[64]

39. At least 1,000 persons injured in the 2014 war will suffer permanent disability.[65] In addition to their particular health and psychological needs, those people remain in need of specific equipment that is unavailable in Gaza owing to the continued blockade. Children constitute 30 per cent of those suffering from a disability as a result of injuries sustained during the war.[66] Over 1,500 children have reportedly become orphaned,[67] with thousands of others traumatized by the latest violence.

40. The health system is in disarray. According to the World Health Organization (WHO), some 17 hospitals and 56 public health centres were either destroyed or sustained damage during the hostilities. Damage inflicted on health institutions, the prevailing shortage in essential drugs (estimated at 40 per cent) and the lack of spare parts for certain medical equipment have reduced the availability and accessibility of health services. For example, outpatient services decreased by 14.75 per cent, Intensive care unit capacity decreased by 21.42 per cent and the availability of basic laboratories was reduced by 12.74 per cent.[68]

41. Violence during the conflict has forced thousands of women to neglect their own needs to save and support their families,[69] with large numbers of them suffering from post-

---

[60] www.timesofisrael.com/donor-conference-pledges-5-4-billion-for-gaza/.

[61] See note 70 above.

[62] Office of the United Nations Special Coordinator for the Middle East Peace Process, *Gaza in 2020: A liveable place?* (August 2012). Available from www.unrwa.org/userfiles/file/publications/gaza/Gaza%20in%202020.pdf.

[63] www.ochaopt.org/documents/ocha_opt_sitrep_30_07_2014.pdfhttp:///.

[64] www.ochaopt.org/documents/gaza_crisis_appeal_9_september.pdf.

[65] Ibid.

[66] Ibid.

[67] Ibid., p.6.

[68] Health Cluster in the occupied Palestinian territory, *Gaza Strip: Joint Health Sector Assessment Report* (September 2014). Available from http://reliefweb.int/sites/reliefweb.int/files/resources/Joint_Health_Sector_Assessment_Report_Gaza_Sept_2014.pdf.

[69] Al-Jazeera, "Gaza women bear psychological scars of war", 28 July 2014. Available from www.aljazeera.com/news/middleeast/2014/07/gaza-women-psychological-scars-war-201472362937327646.html.

traumatic stress disorder, anxiety, depression and, in many cases, permanent disabilities. Mental health issues extend to the wider population. Overall, according to WHO, 20 per cent of the Gazan population, some 360,000 people, are suffering from mental health challenges following the hostilities.[70]

42. The Palestinian people in Gaza were already suffering the severe human cost of past hostilities and the blockade when the situation was further compounded by the recent escalation in July and August 2014. The tragic deaths by drowning of hundreds of migrants from Gaza as they attempted to make perilous journeys across the Mediterranean in overcrowded boats in September 2014 is evidence of just how desperate many people there have become.[71] The desperate situation in Gaza is a stark illustration of the often-referenced summary of the aims of the United Nations: that there can be no peace and security without development, no development without peace and security, and neither without respect for human rights.[72]

D. Settlements

History and recent developments

43. As the Secretary-General has repeatedly stated, settlement activity in the West Bank, including East Jerusalem, is "illegal under international law and runs totally counter to the pursuit of a two-State solution".[73] Israel is prohibited under article 49 of the Fourth Geneva Convention from transferring parts of its own civilian population into the territory that it occupies. The settlements in the West Bank, including East Jerusalem, stand in stark contravention of that obligation.[74] The Secretary-General has consistently urged Israel to reverse its settlement activities.[75] However, the number of settlements and settlers in the West Bank, including East Jerusalem, has continued to grow, from 10,608 settlers in 1972[76] to between 500,000 and 650,000 today.[77] The finding of a commission mandated by the Security Council to examine the situation relating to settlements in 1979 that the settlement policy of Israel was causing "profound and irreversible changes of a geographical and demographic nature in those territories, including Jerusalem" remains pertinent today.[78]

44. As attempts to ensure a lasting peace have again faltered, the settlements stand as arguably the biggest obstacle to peace and the two-State solution. Settlement activity must be ended if the two-State solution is to have any chance. It is therefore particularly concerning, in the months following the 26 August ceasefire agreement, that the Israeli

---

[70] www.who.int/features/2014/gazans-mental-health-services/en/.

[71] http://euromid.org/en/article/612.

[72] A/59/2005, para. 17.

[73] See www.unsco.org/Documents/Statements/SG/2014/SG%20statement%201%20September%202014.pdf and www.unsco.org/Documents/Statements/MSCB/2008/Security%20Council%20Briefing%20-%2021%20October%202014.pdf.

[74] Advisory Opinion of the International Court of Justice on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (A/ES-10/273 and Corr.1), para. 120; CCPR/C/ISR/CO/4, para. 17.

[75] www.un.org/sg/statements/index.asp?nid=8120.

[76] www.fmep.org/settlement_info/settlement-info-and-tables/stats-data/comprehensive-settlement-population-1972-2006.

[77] A/HRC/28/44, sect. III.

[78] S/13450, para. 233.

authorities have pressed ahead with a number of plans that either pave the way for the expansion of settlements or enlarge existing settlements.[79]

The settlements as drivers of conflict and human rights violations

45. The settlements are at the centre of many of the ongoing human rights violations in the West Bank, including East Jerusalem.[80] The mere presence of settlements, and the associated restrictions that are imposed on Palestinians, fragment the Palestinian landscape, undermining the core right of the Palestinian people to self-determination, a right which is at the heart of the two-State solution. Every expansion, such as the declaration of State land near the Israeli settlement of Gush Etzion in August 2014[81] and the approval of new housing units in the Ramat Sholomo and Har Homa settlements in East Jerusalem in October 2014,[82] compounds that process.[83] Plans to transfer thousands of Bedouin and herders from the Jordan Valley may also be connected with settlement expansion. The Bedouin and herders are at risk of forcible transfer, a grave breach of the Fourth Geneva Convention, as well as multiple human rights violations.[84]

46. The impact of the settlements on the enjoyment of Palestinians' economic, social and cultural rights has been well documented. The settlements have had a markedly detrimental effect on Palestinians' rights to water, food, an adequate standard of living and education.[85] Moreover, the mere presence of the settlements has an impact on the rights of Palestinians and they are sources of tension and conflict across the West Bank, including East Jerusalem. That has a corresponding impact on Palestinians' enjoyment of civil and political rights, including the rights to life and to freedom of expression, of peaceful assembly and of movement.[86] A number of the main flashpoints for demonstrations and clashes, which often result in killings and injury of Palestinians, centre on the settlements or are in reaction to settler violence, particularly in places such as Silwan in East Jerusalem, and An Nabi Saleh and Silwad in the central West Bank. Additionally, around some settlements, such as Bracha and Yitzhar near to Nablus, settler attacks on Palestinians and Palestinian property are common.[87]

47. The Israeli authorities' pursuit of settlement expansion only fuels violations of international law, which in turn fan the flames of violence and conflict. It is of concern that the endeavour is backed at the highest levels. Successive Israeli governments have ignored calls to reverse settlement activities. In the wake of an announcement of settlement expansion in East Jerusalem, the current Prime Minister proclaimed that "we have built in Jerusalem, we are building in Jerusalem and we will continue to build in Jerusalem", even as that very exercise fuels tension and conflict in the city and across the Occupied Palestinian Territory.[88]

[79] A/HRC/28/44.
[80] A/69/348, para. 11; A/68/513, paras. 12–14.
[81] A/HRC/28/44, sect. III; A/68/348, para. 19.
[82] A/HRC/28/44, sect. III.
[83] A/HRC/22/63, paras. 32–28; A/67/375, paras. 10–11.
[84] A/69/348, paras. 12–16.
[85] A/HRC/28/44; A/HRC/22/63, paras. 80–95; A/HRC/25/38, paras. 21–36.
[86] A/HRC/22/63, paras. 72–79.
[87] A/HRC/28/44.
[88] www.pmo.gov.il/English/MediaCenter/Speeches/Pages/speechHarbor281014.aspx.

E. Arbitrary and collective measures in the West Bank, including East Jerusalem

48. During the reporting period, Israel extended some measures already used in the West Bank, including East Jerusalem. The authorities significantly increased their use of administrative detention, continued carrying out home demolitions in the context of a discriminatory planning policy, resumed a policy of punitive demolitions and imposed restrictions on Palestinians' freedom of movement and access to religious sites. While the Israeli authorities had a duty to seek to bring the perpetrators of the June 2014 murders of the three teenagers to justice, the use of measures that violate international human rights law and international humanitarian law has contributed to stoking up resentment amongst the Palestinian population.

Administrative and mass arrest and detention

49. The reporting period witnessed a significant increase in the number of Palestinians subjected to administrative detention without charge. According to statistics collected by the Israeli NGO B'tselem from the Israeli Prison Service, 196 Palestinians were being held in administrative detention at the end of May 2014. The figure peaked at 473 in August, according to B'tselem the highest number since April 2009, before falling back to 468 by 30 September. [89] The increased use of the practice by Israel, despite consistent denunciations by the Secretary-General, the Human Rights Committee, the High Commissioner for Human Rights and others, is of concern.[90]

50. The increase in administrative detention came in the context of alleged mass arbitrary arrests and detentions, particularly in the Hebron area and in East Jerusalem, as well as other parts of the West Bank. Those mass measures, combined with other collective measures, helped contribute to a pressure cooker environment in the West Bank, including East Jerusalem.[91]

Demolitions, including punitive and mass demolitions

51. In the summer of 2014, the resumption of punitive demolitions of the homes of the suspects in the abduction and murder of the three Israeli teenagers and one other, was another retrograde step. Israel formally ended its policy of punitive demolitions in 2005, although one isolated instance was noted in 2009.[92] Those measures, supposedly intended as a deterrent, but entailing multiple violations of international law, only serve to alienate the population, particularly owing to their collective nature and the impact on people innocent of any alleged crime.[93] In 2005, an Israeli commission recommended an end to punitive demolitions, reportedly assessing that punitive demolitions were not an effective deterrent and caused damage to Israel by generating hatred and hostility.[94]

---

[89] www.btselem.org/administrative_detention/20141007_spike_in_number_of_administrative_detainees; www.btselem.org/statistics/detainees_and_prisoners.

[90] CCPR/C/ISR/CO/4; www.un.org/sg/statements/index.asp?nid=7751; www.un.org/apps/news/story.asp?NewsID=48092; www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=14770&LangID=E#sthash.IU1rEHYi.dpuf.

[91] A/HRC/28/80/Add.1, paras. 6–22.

[92] A/HRC/28/80/Add.1, para. 18; www.hamoked.org//timeline.aspx?pageID=timelinehousedemolitions; www.haaretz.com/print-edition/news/idf-panel-recommends-ending-punitive-house-demolitions-for-terrorists-families-1.150620.

[93] A/HRC/28/80/Add.1, paras. 6–22.

[94] www.haaretz.com/print-edition/news/idf-panel-recommends-ending-punitive-house-demolitions-for-

52. The demolition of Palestinian homes built without Israeli permits continued apace during the reporting period: 871 structures were demolished (310 residential and 561 livelihood structures), resulting in the displacement of 1,300 people. Figures for the past years show that the number of demolitions in the West Bank, including East Jerusalem, has remained above 600 annually since 2011, with more than 1,000 people displaced each year since then except for 2012, when 886 people were displaced.

53. Those demolitions take place in the context of discriminatory Israeli planning policy and in many cases are linked to settlement expansion.[95] The threat to the Bedouin population in the Jordan Valley and the Jerusalem periphery, where they have been subjected to multiple mass demolitions and forcible transfer, as well as in the E1 zone, where they face the same fate on an even larger scale, is of grave concern.[96]

Freedoms of movement and religion

54. Palestinians continued to face restrictions on their freedom of movement, including because of the existence and continued construction of the wall. The wall has been extended considerably and continues to have a severely detrimental impact on the lives of Palestinians in the West Bank, including East Jerusalem, restricting the ability of many to access their land and crucial services, such as schools and health clinics. Generally, together with the restrictions on movement within the West Bank, it severely affects Palestinians' freedom of movement.[97] Like the settlements, the wall is a focus of resentment and regular demonstrations are held against it in places like Nil'in and Bil'in.

55. The issue of access to religious sites and freedom of religion came to the fore during Ramadan, when thousands of Palestinians from the West Bank were denied access to Jerusalem to pray at the al-Aqsa mosque. For example, on 25 July 2014, 7,791 Palestinians were able to enter Jerusalem through checkpoints, approximately 8 per cent of the figure for the equivalent night in 2013.

Situation in East Jerusalem

56. During the reporting period, the situation in East Jerusalem deteriorated significantly. Following the abduction of three Israeli teenagers in June 2014, the Israeli authorities focused some operations on East Jerusalem, and many of the collective measures set out above had a particular impact on Palestinians in East Jerusalem.[98] In the context of the Gaza war and anger over the abduction and killing of Mohammad Abu Khdeir, widespread demonstrations and clashes took place in which hundreds of people were injured.[99]

57. While anger over Gaza and the killing of Mr. Abu Khdeir dissipated towards the end of the summer, the situation in Jerusalem remained volatile, and by the end of the reporting period, tension and violence revived as extreme right Israeli religious and nationalist groups agitated and tried to gain access to the compound housing the al-Aqsa mosque. Israeli security forces sometimes escorted them in, but sometimes prevented them from entering. Reportedly, some 8,500 Jews gained access to the compound in 2013, compared with 5,800 in 2010.[100] Concerns that the status quo, in which Muslims are allowed to pray at the al-

terrorists-families-1.150620.

[95] A/HRC/25/38, paras. 9–20; A/HRC/22/63, paras. 62–71; A/67/375, para. 8; A/66/364, para. 11.

[96] A/69/347, paras. 23–26.

[97] A/69/347, paras. 7–27; www.ochaopt.org/documents/ocha_opt_10_years_barrier_report_english.pdf.

[98] A/HRC/28/80/Add.1.

[99] Ibid.

[100] www.nytimes.com/2014/10/31/world/middleeast/yehuda-glick-shooting-suspect-killed-

Aqsa mosque within the compound and Jews at the Western Wall outside, would be changed touch on some of the most sensitive religious and political issues surrounding the conflict.

58. On 29 October 2014, a rabbi involved with organizations aiming to build a Jewish temple in the compound was shot and seriously injured in West Jerusalem, shortly after the 22 October light rail incident (see para. 24 above). The alleged perpetrator was killed the same night by the Israeli security forces. In an apparent response to the increased tension and clashes, the Israeli authorities reportedly launched a campaign of enforcement of municipal laws that had previously been largely unenforced, specifically in East Jerusalem.[101] East Jerusalem was only made subject to those laws as a result of its illegal annexation by Israel. The enforcement campaign was criticized for being selective and discriminatory.[102] An increase in demolitions of houses without building permits at the end of the reporting period only prompted further demonstrations and clashes amid heightened tension in the city.[103]

F. Palestinian disunity as a driver of conflict and human rights violations

59. The seven-year political split between Hamas and Fatah, which began with serious intra-Palestinian violence in 2007, has contributed to serious human rights violations and abuses and the lack of accountability in the Occupied Palestinian Territory. Palestinian division is not only a key driver of intra-Palestinian conflict and human rights violations and abuses; it also makes peace harder to achieve.[104]

Summary executions and the death penalty

60. During the 2014 escalation in Gaza, members of Palestinian armed groups allegedly summarily executed at least 21 "collaborators", including 16 prisoners taken from Katiba Prison by masked men and five others executed at different locations.[105] As far as OHCHR is aware, no investigations into those incidents had been initiated by the end of the reporting period. The de facto authorities in Gaza also imposed the death penalty on numerous occasions, at least in some cases after unfair trials.[106] During all three escalations in the past six years, Palestinian armed groups carried out a number of summary executions of suspected collaborators. In the West Bank, there are concerns regarding the use of force by Palestinian security forces, including during the reporting period, and the lack of accountability in such cases.[107]

Arbitrary detention, torture and ill-treatment of political opponents

61. OHCHR has for some time documented the arbitrary detention, torture and ill-treatment of political opponents by Palestinian security forces in the West Bank and in

---

jerusalem.html.

101 www.haaretz.com/news/national/.premium-1.623297; www.timesofisrael.com/mayor-tells-police-to-up-home-demolitions-in-e-jerusalem-amid-riots/.

102 www.btselem.org/jerusalem/20141105_draconian_steps_in_jerusalem.

103 www.ochaopt.org/documents/ocha_opt_protection_of_civilians_weekly_report_2014_11_07_english.pdf.

104 Security Council resolutions 1850 (2008) and 1860 (2009);,www.un.org/sg/statements/?nid=5240.

105 Source: OHCHR.

106 A/HRC/25/40, paras. 69–71.

107 A/HRC/25/40, paras. 15–17 and 57.

Gaza.[108] That has been one of the key features of the schism between Fatah and Hamas. At times of political confrontation, detention of opposition activists is common on both sides.

62. In the West Bank, both before and during the reporting period,[109] OHCHR documented a number of cases of violations, particularly against perceived political opponents and activists, including the use of vague and overly broad laws as a basis for detention,[110] non-compliance with court orders for release, the use of the executive powers of the Governor to detain on an administrative basis, and non-compliance with time limits for court appearances prescribed by law.[111]

63. OHCHR has similarly documented cases in Gaza in which detainees, particularly political detainees, suspected collaborators, journalists and people alleged to have committed moral crimes or misconduct, have been subjected to torture and ill-treatment.[112] The overwhelming majority of those cases have not been investigated and the perpetrators have not been held accountable.

Freedom of assembly and of expression

64. Palestinian security forces in both the West Bank and Gaza have used arrest and detention as a way of stifling the rights to freedom of assembly and of expression. That only serves to breed mistrust amongst political groups, not only Fatah and Hamas but also other smaller groups, many of which are already disenchanted by the lack of a functioning Palestinian legislature and their difficulty having their political voice heard.

65. In one case documented by OHCHR in the West Bank, on 29 March 2014, four Palestinian security agencies arrested more than 130 people from the Jamal Abdelnaser mosque in al-Bireh, near Ramallah. Most of those arrested were Hizb-at-Tahrir party members gathering to hear a speech by a party leader. Other crackdowns on Hizb-at-Tahrir have been documented by OHCHR.[113]

66. In Gaza, the authorities have restricted freedom of expression during the reporting period, including by prohibiting the daily publication of newspapers, including *Al-Ayyam*, *Al-Hayat Al-Jadida* and *Al-Quds*, and closing media outlets, including Al-Arabiya, Ma'an News Agency and Reuters.[114] An August 2007 directive banning any peaceful assembly without prior authorization from the Ministry of the Interior remains in force.[115] OHCHR documented several incidents involving forcible dispersion of peaceful assemblies for which the organizers had failed to obtain prior authorization.[116]

G. Conclusion

67. The human rights situation in the Occupied Palestinian Territory remains of grave concern. The murders of the Israeli teenagers and the Palestinian boy in June

[108] A/HRC/24/30, paras. 49–52; A/HRC/25/40, paras. 44–46.
[109] A/HRC/24/30, paras. 49–52; A/HRC/25/40, paras. 44–46.
[110] Such as article 150 of the Jordanian Penal Code, which includes the offence of "inciting sectarian strife".
[111] A/HRC/28/80, sect. III.
[112] Ibid.; A/HRC/25/40, paras. 47–49.
[113] www.maannews.net/eng/ViewDetails.aspx?ID=672063.
[114] A/HRC/25/40, paras. 63–67.
[115] www.pchrgaza.org/portal/en/index.php?option=com_content&view=article&id=721:pchr-calls-upon-the-executive-force-to-cancel-the-decision-to-ban-demonstrations-without-official-permission-from-the-force&catid=133:press-releases-from-other-years-05-08&Itemid=300.
[116] A/HRC/25/40, paras. 63–67.

and July 2014, and the subsequent security operations in the West Bank, followed by rocket fire and the escalation in Gaza, inflamed tensions and entrenched the divisions and suspicion that have characterized the situation for decades. Accordingly, the "criticality of immediately diffusing the escalating tensions in East Jerusalem without delay" was underscored to the Security Council in its session on the situation in East Jerusalem on 29 October 2014.[117] The same must be said of the situation in Gaza and the rest of the West Bank, which remains fragile and volatile. For the diffusion of tension to be lasting in any kind of meaningful way, all sides need to address the human rights dimensions of the conflict.

68. Yet another year of bloodshed and recurrent violations and abuses underlines that there needs to be a break from the past: an end to the violations of international law that foment tension and drive violence; and the prevention of future violations, including through accountability and a reckoning with the past. As the present report and the numerous previous United Nations reports on the Occupied Palestinian Territory make clear, there are several key areas on which that change could focus.

69. The settlements in the West Bank, including East Jerusalem, violate international law and run counter to the two-State solution. They are at the centre of many other human rights violations in the occupied West Bank, including East Jerusalem, and a source of constant friction, demonstrations, incidents involving the excessive use of force by Israeli security forces, settler violence and widespread discriminatory policies affecting Palestinians' enjoyment of their human rights. On the Palestinian side, attacks on Israelis only heighten tension and provide material for a justification of hard-line measures that reinforce the cycle of violence.

70. The settlements also undermine Palestinian territorial integrity, contrary to international law, and Palestinians' right to self-determination.[118] So does the ongoing blockade, which is a continuing collective penalty against the population in Gaza; it weakens links between Gaza and the West Bank, and must be ended. Intra-Palestinian fighting and disunity, which lead to violations and abuses by the Palestinian Authority and armed groups against political opponents, exacerbate that fragmentation.

71. Impunity for violations and abuses by all sides reinforces those problems. After three escalations of violence in six years in Gaza, and recurring violations and violence in the West Bank, including East Jerusalem, a line needs to be drawn and accountability ensured. The failure to ensure accountability runs counter to the legal obligations of the duty bearers and completely undercuts the credibility of each side in the eyes of the other, driving resentment and creating an environment in which perpetrators on all sides are able to get away with violations, fuelling further abuses.

72. As the Secretary-General has said, "the cycle of build-and-destroy must end".[119] That applies as much to people's hopes of dignity, rights and peace as it does to Gaza reconstruction. It is clear that an enduring solution to the conflict must embrace human rights. Respect for human rights leads to the mutual respect, dialogue and understanding upon which the foundations of peace are laid. Without addressing the violations and abuses of international human rights law and international humanitarian law that are both a cause and consequence of the conflict and violence, a sustainable political solution will be impossible to reach. Those two dimensions — political and human rights — are inextricably linked. After yet another escalation in

[117] www.un.org/wcm/content/site/undpa/main/about/speeches/pid/25503.
[118] A/ES-10/273 and Corr.1.
[119] S/PV.7281, p. 3.

Gaza, and with the West Bank, including East Jerusalem, again on the brink of increased violence, the cycle of violations and conflict must be brought to an end.

IV. Recommendations

73. All duty bearers must comply fully with international law, including by adequately remedying, and ensuring accountability for, violations and abuses. That involves fully complying with the Advisory Opinion of the International Court of Justice on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory and with the recommendations of the United Nations human rights treaty bodies, and implementing previous recommendations by the Secretary-General and the High Commissioner for Human Rights, which remain valid but unimplemented.

74. Obstacles to peace and to Palestinians' enjoyment of their human rights, including their right to self-determination, must be removed. That means the ending and reversal of all settlement activity in the West Bank, including East Jerusalem, the full lifting of the blockade on Gaza and the ending of the occupation of Palestinian land. At the same time, due consideration should be given to ensuring the legitimate security needs of Israel with due respect for international humanitarian law and international human rights law.

75. All parties should refrain from unilateral actions that only exacerbate tensions and resentment. They should promote an environment that is conducive to peace, mutual understanding and respect for human rights.

United Nations A/HRC/28/46

General Assembly

Distr.: General
14 January 2015

Original: English

Human Rights Council
Twenty-eighth session
Agenda items 2 and 7
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Human rights situation in Palestine and other occupied Arab territories

Human rights in the occupied Syrian Golan

Report of the Secretary-General*

Summary

The present report was prepared pursuant to Human Rights Council resolution 25/31, in which the Council requested the Secretary-General to report to the Council at its twenty-eighth session on the implementation of that resolution.

* Late submission.

GE.15-00346 (E)

1500346

Please recycle

I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 25/31, in which the Council called upon Israel, the occupying Power, to comply with the relevant resolutions of the General Assembly, the Security Council and the Human Rights Council. The Council recalled in particular Security Council resolution 497 (1981), in which it decided, inter alia, that the decision of Israel to impose its laws, jurisdiction and administration on the occupied Syrian Golan was null and void and without international legal effect, and demanded that Israel rescind forthwith its decision.

2. In resolution 25/31, the Human Rights Council also requested the Secretary-General to bring the resolution to the attention of all Governments, the competent United Nations organs, specialized agencies, international and regional intergovernmental organizations and international humanitarian organizations, to disseminate it as widely as possible and to report thereon to the Council at its twenty-eighth session.

II. Implementation of Human Rights Council resolution 25/31

3. On 3 September 2014, the Office of the United Nations High Commissioner for Human Rights (OHCHR), on behalf of the Secretary-General, addressed a note verbale to the Government of Israel referring to Human Rights Council resolution 25/31 and requesting information on any steps taken or envisaged to be taken concerning the implementation of the said resolution. No reply was received.

4. On the same day, OHCHR, on behalf of the Secretary-General, addressed a note verbale to all permanent missions in Geneva to draw their attention to Human Rights Council resolution 25/31 and to request the Governments of Member States to provide information on any steps taken or envisaged to be taken concerning the implementation of the relevant provisions of the resolution. The permanent missions of the Syrian Arab Republic, Cuba and Denmark responded by means of notes verbales to that request.

5. In addition, on behalf of the Secretary-General, OHCHR, pursuant to the request of the Human Rights Council, brought resolution 25/31 to the attention of the competent United Nations organs, specialized agencies, international and regional intergovernmental organizations and international humanitarian organizations. No reply was received.

6. In a note verbale dated 16 October 2014, the Syrian Arab Republic referred to the "continuing illegal occupation of the Syrian Golan by Israel". According to the Syrian Arab Republic, Israel continued to build illegal settlements, confiscate land owned by Syrian citizens, prevent the reunification of Syrian families and illegally explore and exploit natural resources, including water, gas and oil resources by Israeli and foreign-owned companies such as Genie Energy, as well as its ill-treatment of Syrian prisoners illegally held in Israeli jails.

7. According to the Syrian Arab Republic, the Israeli occupying authority in the occupied Syrian Golan, represented by the Israel Land Administration, did not allow the issuance of building permits for Syrian citizens in the village of Masa'da to build homes on their ancestral properties, but also confiscated parts of this land. In addition, the Syrian Arab Republic stated that the Israeli occupying authority continued to harass owners of the land comprising collectively owned plots of 354 *dunums* legally registered by the relevant Syrian authorities in 1946. The Syrian Arab Republic stated that the Israeli occupying authority had brought illegally more than 90 Syrian citizens to court in the occupied Syrian Golan under the pretext that they had not received proper building permits, which the Israeli authorities refused to grant.

8. In its response, the Syrian Arab Republic condemned the continued violation of the cultural rights of Syrian citizens in the occupied Syrian Golan. It stated that the Israeli authorities of occupation had recently organized its third archaeological conference in the Israeli illegal settlement of "Katzrin" in the occupied Syrian Golan on the theme "The Golan and Galilee, the nucleus for settlements", which concluded that the preservation of a Jewish presence in the Golan depended on the "excavation of ancient Jewish history". According to the Syrian Arab Republic, the conference and similar activities were used as a pretext to erase Syrian and Arab culture in the occupied Syrian Golan by falsifying facts about archaeological findings. The Syrian Arab Republic stated that a case in point was the attempt to erase the identity of the Syrian village of Um al Qanater in the south of the occupied Syrian Golan by illegally changing its name to "Kshatot Rehavam", and had issued in April 2014 an Israeli stamp with the Israeli name illegally given to the village.

9. The Syrian Arab Republic condemned Israel, as the occupying Power, for illegally imposing its law, jurisdiction and administration on the occupied Syrian Golan, and for disregarding all relevant United Nations resolutions pertaining to the illegal occupation of the Syrian Golan.

10. The Permanent Mission of Denmark, in a note verbale dated 17 September 2014, stated that the Government of Denmark was pursuing a peaceful settlement of the Israeli-Arab conflict, including between Israel and the Syrian Arab Republic. The conflict contributed to the destabilization of the overall security situation in the Middle East and had to be resolved. As a member of the European Union, Denmark associated itself fully with the policies and initiatives undertaken by the European Union as a whole and the various efforts made by the European External Action Service and the Commission of the European Union with regard to furthering peace and justice in the conflict. In July 2014, Denmark introduced to the members of the public common messages from the European Union aimed at raising awareness among European Union citizens and businesses regarding involvement in financing and economic activities in the settlements, including in the occupied Syrian Golan.

11. On 15 September 2014, the Permanent Mission of Cuba addressed a note verbale to OHCHR in which it expressed its full support for Human Rights Council resolution 25/31. It reiterated that all legislative and administrative measures and actions taken by Israel in the past 46 years were null and without juridical validity.

12. Cuba also referred to attempts made by Israel to modify the legal status, physical character, demographic composition and institutional structure of the occupied Syrian Golan.

13. In its note verbale, Cuba called upon Israel to withdraw immediately from the Syrian Golan to the lines existing on 4 June 1967, in compliance with Security Council resolutions 242 (1967) and 338 (1973). It also noted that Israel should renounce its unrestrained attempts to take over the occupied Syrian Golan. According to Cuba, foreign occupation, policies of expansion and aggression, the creation of settlements and of facts on the ground and the acquisition of territory by force were practices that violated international instruments and norms.

14. Cuba vehemently condemned violations of international humanitarian law committed by Israeli authorities in relation to Syrian detainees in the occupied Syrian Golan, reiterated its profound concern at the continuing brutal practices, expressing also its concern at the inhumane conditions created by the State of Israel.

15. Cuba rejected the Israeli practices aimed at the control and exploitation of natural resources of the Syrian Golan in what it described as the flagrant violation of Security Council and General Assembly resolutions in relation to the sovereignty of the Arab population in the Syrian Golan.

16. Cuba added that the 120 States Members of the Non-Aligned Movement had expressed their unconditional support for and solidarity with the legitimate demand of the Syrian Arab Republic to fulfil its sovereignty over the occupied Syrian Golan, based on the Arab Peace Initiative and the Madrid peace process, as well as the principle of land for peace, in conformity with relevant Security Council resolutions. According to Cuba, the ongoing occupation of the Syrian Golan and its de facto annexation constituted an obstacle to achieving fair, comprehensive and long-lasting peace in the region.

United Nations A/HRC/28/47

General Assembly

Distr.: General
19 January 2015

Original: English

Human Rights Council
Twenty-eighth session
Agenda items 2 and 9
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up to and implementation of the Durban Declaration and Programme of Action

Combating intolerance, negative stereotyping, stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief

Report of the United Nations High Commissioner for Human Rights*

Summary

The present report is submitted pursuant to Human Rights Council resolution 25/34, in which the Council requested the United Nations High Commissioner for Human Rights to prepare and submit, at its twenty-eighth session, a report based upon information provided by States on the efforts and measures taken by them for the implementation of the action plan outlined in paragraphs 7 and 8 of the resolution, as well as their views on potential follow-up measures for further improvement of the implementation of that plan. The report compiles and summarizes the contributions received from States and draws some conclusions based on them.

* Late submission.

GE.15-00641 (E)

1500641

Please recycle

Contents

		Paragraphs	*Page*
I.	Introduction	1–2	3
II.	Information received from Member States	3–96	3
III.	Activities undertaken by the Office of the United Nations High Commissioner for Human Rights	97–100	16
IV.	Conclusions	101–109	17

I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 25/34 on combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief. In paragraph 12 of the resolution, the Council requested the United Nations High Commissioner for Human Rights to prepare and submit to the Council, at its twenty-eighth session, a comprehensive follow-up report with elaborated conclusions based upon information provided by States on the efforts and measures taken by them for the implementation of the action plan outlined in paragraphs 7 and 8 of the resolution, as well as their views on potential follow-up measures for further improvement of the implementation of that plan.

2. The report contains a summary of the information received from 15 States; the original texts of the contributions can be consulted in the files of the Secretariat.

II. Information received from Member States

Argentina

3. Article 14 of the Constitution of Argentina states that all inhabitants of the nation enjoy the right to profess their religion freely, in accordance with the law. A Constitutional Court ruling, effective since 1994, provides that treaties prevail over national laws and some human rights treaties have constitutional status. Argentina recognizes the right to freedom of religion as enshrined in article 3 of the American Declaration of the Rights and Duties of Man and article 12 of the American Convention on Human Rights.

4. The National Registry of Religions has registered more than 2,500 officially recognized beliefs and religions, and ensures the promotion and protection of the rights of confessional communities.

5. The National Plan against Discrimination, based on the Durban Declaration and Programme of Action, has been approved and provides for extensive national consultations in terms of development and implementation processes.

6. In 2012, the National Institute against Discrimination, Xenophobia and Racism (INADI) launched the Programme on Religious Diversity and Beliefs and the Forum for Religious Diversity and Beliefs. The main objective of the latter is to approach diversity and non-discrimination from a human rights perspective and to address issues relevant to religious communities. A series of awareness-raising materials are currently being developed to promote dialogue and public awareness about the right to freedom of expression and belief.

7. In December 2011, INADI launched the Centre for Research, Development and Training on Cultural, Religious and Ethnic Diversity (DIVERSIA). Since its creation, DIVERSIA has conducted various training sessions, seminars and other activities aimed at promoting cultural diversity.

8. INADI is mandated to consider complaints by individuals and members of civil society on grounds of discrimination, including anti-Semitism and Islamophobia.

Australia

9. The Department of Social Services works to foster a domestic environment of religious tolerance, peace and respect. It funds grants for Diversity and Social Cohesion projects, which promote local awareness and understanding within and between communities through common dialogues and goals, and supports the National Anti-Racism Strategy of the Australian Human Rights Commission and the National Anti-Racism Partnership.

10. Through the network of Multicultural Community Liaison Officers, the Department of Social Services engages with communities on the ground. Multicultural Community Liaison Officers focus on creating collaborative relationships and community networks and providing information and "messaging". Officers also work with multicultural communities to identify and help address potential drivers of social conflict and division in diverse areas. This helps to inform strategies that strengthen social cohesion, including the identification of priority needs and locations.

11. Advisory bodies and various government departments convene regular interfaith dialogues and initiatives involving religious and community leaders and interfaith experts. The Government protects and promotes religious rights and freedoms through the criminal and civil legislative framework and by actively engaging with the communities and their leaders.

12. Through the Attorney-General's Department, Australia engages and works with a wide range of community groups and organizations to build resilience to violent extremism, as well as groups that promote radicalization to violent extremism.

13. A range of materials have been published that provide guidance on assisting vulnerable persons, including youths, to move away from ideologies that promote the use of violence to achieve social change. The guidance emphasizes that everyone has the right to express their beliefs and group interests openly, but that a willingness to use or support the use of violence to achieve political, religious or ideological goals is unlawful (see www.livingsafetogether.gov.au).

14. Strong vilification laws are in place, such as those found in the Racial Discrimination Act 1975, which strike a balance between the right to freedom of expression and freedom from racial discrimination and racial vilification. There are strong domestic criminal laws against urging violence, including between religious and cultural groups. Where there is a basis for suspecting that activities of individuals or groups are of security concern, they are reviewed and investigated by relevant law enforcement and security authorities.

Azerbaijan

15. The State Committee on Religious Associations of the Republic of Azerbaijan outlined several measures taken during 2014 in Baku and other regions aimed at anchoring in law the rights and freedoms of all confessions represented in the country. Such measures were taken with a view to combating religious intolerance and violence, eliminating situations causing aggressive and extremist behaviour, minimizing religious fanaticism, and to facilitating the coexistence of the followers of different faiths around common religious/moral values.

16. During 2014, two-day regional conferences were held in the cities of Ismayilli, Guba, Sheki and Barda, at which prominent speakers delivered speeches and discussions were held around key themes.

17. Within the framework of "peace month", which is held annually from 21 August to 21 September, the Committee organized several awareness-raising meetings in the cities of Zagatala, Goychay and Lankaran, attended by representatives of various sectors of society, on the promotion of peace and human rights and religious tolerance. A mini-football tournament, for the Cup of Tolerance, was held in April–May 2014 among religious communities. Teams of the different confessions, as well as representatives of the Muslim, Christian and Jewish communities, participated in the tournament.

18. Significant funds were allocated to the Development of Religious Culture Foundation with the aim of strengthening the promotion of religious culture, tolerance and interreligious and intercultural dialogue, and the Baku International Centre for Multiculturalism was established. Under an order of the Cabinet of Ministers, funds were allocated to religious communities.

19. The Tolerance Network of Religious Communities, an electronic network, was established; Jewish, Christian and Muslim communities demonstrating social activeness participate in the network. Twenty religious communities have been provided with computers in order to improve the functioning of communities in social life with a view to promoting universal values, strengthening the principle of intercommunal networking and mutual cooperation, and providing technical education to religious communities. Five joint projects aimed at resolving social problems by involving religious communities of different beliefs have already been supported.

El Salvador

20. The right of everyone to freely profess a religion or belief is enshrined in the Constitution. Article 3 provides that all persons are equal before the law and in their enjoyment of civil rights and that no restrictions based on nationality, race, sex or religion may be established.

21. Any officer, employee, agent or public authority denying individuals rights under the Constitution on grounds of nationality, race, sex, religion or other status, or otherwise, shall be punished with imprisonment of one to three years and disqualification from office or employment for the same period (art. 292 of the Penal Code).

22. The State recognizes the diversity of religions, faiths and churches, in accordance with article 25 of the Constitution, which guarantees the free exercise of all religions, without limitation other than by morality and public order. In accordance with articles 3 and 25 of the Constitution, initiatives have been promoted to build and strengthen a culture of peace, respect and tolerance among the Salvadoran population.

23. On 29 September 2014, the National Council for Citizen Security and Coexistence was created to provide a forum where proposals and solutions to insecurity and violence existing in the country can be addressed. Representatives of the Catholic Church, the Lutheran Church, the Anglican Church, the Evangelical Church, business associations, the Attorney General's Office (Fiscal General de la República), the Association of Municipalities of the Republic of El Salvador (COMURES), various government portfolios, political parties and the media participate in the forum.

24. Actions violating an individual's freedom of religion include impairing, interrupting or disrupting the free exercise of religion; making public declarations against beliefs; and destroying religious objects. Such offences are to be punished by imprisonment for six months to two years. The sanctions of imprisonment are greater if the offence is committed with publicity and/or repeatedly (art. 296 of the Penal Code). There is no record of cases brought or prosecuted for reasons of intolerance, stigmatization or discrimination on the grounds of religious practices or beliefs.

25. Catholic, Episcopal Anglican, Lutheran, Reformed Calvinist, Baptist, Baha'i, Buddhist, Jewish and Muslim leaders have joined the El Salvador affiliate of Religions for Peace, with a view to coordinating and collaborating on joint actions.

26. Religiously motivated violence is prevented by the State, and article 7 of the Constitution prohibits the existence of armed groups of a political, religious or union nature.

27. With regard to education, the State ensures access and equality for all people, as set out in article 58 of the Constitution. Public schools are secular, while most private schools are of Christian denomination, but all educational institutions operate freely and must meet the operational requirements set by the Ministry of Education.

France

28. France stated that an interministerial committee against racism and anti-Semitism (DILCRA) was charged with proposing and following the development of a national policy against racism and anti-Semitism. The policy provides for awareness-raising activities and training among diverse sectors of the public (State authorities, victims and Internet users) focused on combating stereotypes and prejudice in order to prevent racial discrimination.

29. The initial and continuing training of public authorities was identified as a specific task. As of 2015, all of the approximately 60,000 new representatives of the State will benefit from an obligatory awareness-raising training programme. Supervisors will train and mobilize their staff through seminars and training modules, in which the supervisors have already participated. DILCRA is working with ministers of the interior at the department level and ministers of education and ecology on this policy. Teacher training institutions (*écoles supérieures du professorat et de l'éducation*) have also been mobilized to ensure implementation of the national training policy.

30. France said that it was convinced of the fundamental importance of raising awareness among young people; an "educational continuum" targeting them would be put in place in schools and universities. As of 2015, in order to prevent stereotyping and discrimination, awareness-raising programmes will be integrated into a national common set of teaching materials focused on secular values. The training will include elements on citizenship and cultural and historical heritage, and pedagogical tools aimed at fighting racial hatred. A DILCRA working group will also work on creating linkages between cultural establishments and school groups.

31. Practical tools for use in the world of sports, for youth and for use in popular education have been designed. Several projects have been undertaken in the past months, including a legal guide on the fight against "incivility", violence and discrimination in sports; a teaching kit entitled "Toward sports without violence ..." aimed at preventing racism, issued in 2014; a guide on good practices against racism and anti-Semitism; and a history book on racism, anti-Semitism and xenophobia in sports in France during the twentieth century, prepared by the Comité d'histoire des ministères chargés de la Jeunesse et des Sports. Under this national policy innovative teaching and pedagogical actions will be undertaken by associations on the ground.

Germany

32. The Federal Government actively supports networking, democratic consciousness and participation, education, and the promotion of civic engagement through the Forum against Racism; the government-funded programme entitled "Cohesion through

participation"; the Federal Agency for Civic Education (Bundeszentrale für politische Bildung); and the Alliance for Democracy and Tolerance.

33. The Federal Ministry of the Interior has, for many years, successfully promoted Christian-Jewish cooperation and interreligious and intercultural dialogue between Christians and Jews, in recent years expanding the dialogue to a trialogue at the international level with Muslims. In 2006, the German Islam Conference was launched to establish a permanent communication process between the German state (Federal Government, Federal Länder, municipalities) and the representatives of Muslims living in Germany (see www.deutsche-islam-konferenz.de).

34. The Federal Minister of the Interior delivered a speech on the occasion of the Day of Action against Hatred and Violence, which was organized by Muslim associations in 10 cities all over Germany; activities marking the Day were held on 19 September 2014 after Friday prayers, and included sit-ins and peace prayers. In addition, in 2014, the Federal Ministry of the Interior funded projects on interreligious and intercultural dialogue.

35. In Germany, offences involving discrimination against persons based on religion or belief, in particular violent offences, are recorded separately and analysed as hate crimes, under the heading of politically motivated crime. Germany stated that approximately 90 per cent of those offences had been attributed to right-wing-oriented and politically motivated crime. In accordance with the criminal law, in cases of hate crimes involving contempt for other human beings, which includes discrimination or violence based on religion or faith, the courts generally issue stricter sentences; if the crime entailed murder, courts consider the offender to have acted on base motives (sect. 211 of the Criminal Code). Specific forms of hate crime involving religious aspects are also punishable, depending on the individual case, as incitement to hatred (sect. 130 of the Criminal Code), as the defamation of religious associations (sect. 166 of the Criminal Code) or as insults (sect. 185 of the German Criminal Code), if the offence was targeted at individuals. According to the Police Crime Statistics for 2012, 2,506 cases of incitement to hatred and 47 cases of defamation of religious associations were reported in 2012, with the resolution rates being 63.8 per cent and 44.7 per cent, respectively. Insults with a religious aspect are recorded under the subheading "religion", provided that an application for criminal prosecution is filed.

36. Police work to combat hate crimes includes systematically prosecuting hate crimes as offences against State security and recording them separately; cooperating with counselling bodies and supporting projects, associations and institutions providing assistance to victims; undertaking differentiated analysis of the number of cases nationally, in order to elaborate potential prevention measures; and cataloguing measures to combat politically motivated crime in order to perceive, record and combat relevant offences in a more targeted manner. The police take regular preventive measures, such as stepping up physical protection or police controls with regard to especially vulnerable locations, for example, Jewish cemeteries. Germany stated that the Federal Council (Bundesrat) had decided to initiate procedures before the Federal Constitutional Court to ban a right-wing extremist party, with the active support of the Federal Government.

37. In 2011, the Federal Ministry of the Interior launched the Security Partnership Initiative, a body comprised of representatives of the Federal Government, the Länder, security authorities and Muslims, aimed at increasing public awareness of the problem of radicalization of young people, to initiate projects and to provide financial support for successful projects carried out by Muslims and security authorities at the local level (see www.initiative-sicherheitspartnerschaft.de).

Greece

38. In October 2014, Law 4301, a new law on the organization of the legal form of religious communities in Greece, was adopted by the Hellenic Parliament. The concept of "religious legal person" was legislated in Greece for the first time, with the aim of attributing the appropriate legal form to religious communities and regulating the issue of their organization. Thus, the fundamental right to religious freedom has been strengthened, and the collective expression of religious beliefs of all members of religious communities has been facilitated.

39. European Union Council Framework Decision 2008/913/JHA of November 2008 has been implemented through Law 4285/2014 (amendment of Law 927/1979) on combating certain forms and expressions of racism and xenophobia by means of criminal law. Articles 1 and 2 of Law 4285/2014 provide for sanctions against anyone who publicly incites to actions creating discrimination, hatred or violence against a group of persons or a member of such a group defined by reference to race, colour, religion, descent, national or ethnic origin, sexual orientation or disability, jeopardizing public order.

40. Sanctions are also prescribed for those who incite such actions resulting in the commission of a crime. The same sanctions are provided for anyone who publicly condones, trivializes or denies war crimes, crimes of genocide or crimes against humanity, including the Holocaust and crimes of Nazism, that have been recognized in decisions of international courts or by the Hellenic Parliament. Moreover, sanctions for the aforementioned offences are provided vis-à-vis public servants.

Ireland

41. Article 44 of the Irish Constitution specifically protects religious freedom and the right to freedom of expression of convictions and opinions. The law also provides for strong protection against discrimination on nine grounds, including religious belief, through the Employment Equality Acts, which cover discrimination in the workplace, and the Equal Status Acts, which provide for protection against discrimination in the provision of goods and services. The legislation is designed to promote equality, prohibit discrimination — direct, indirect and by association — and victimization, and allows for positive action measures to ensure full equality. Irish legislation also provides for remedies for those who have suffered discrimination.

42. The Prohibition of Incitement to Hatred Act, 1989, makes it an offence, inter alia, to use words, publish or distribute written material, or broadcast any visual images or sounds that are threatening, abusive or insulting and are intended to or, having regard to all the circumstances, are likely to stir up hatred.

43. Where criminal offences such as assault, criminal damage or public order offences are committed against a person based on their religion or belief, the offences are prosecuted as generic offences through the wider criminal law, but judges are required to take such aggravating factors into account at sentencing.

44. In 2012, the Government established the Convention on the Constitution, which published its sixth report in January 2014, in which it recommended that a referendum should be held with a view to removing the offence of blasphemy from the Constitution. The Government's response was presented to the Dáil (in the Irish Parliament) in October 2014 and the referendum will take place at an appropriate date to be decided by the Government after the necessary consultations have been completed and the required legislation has been prepared. A vote in favour of removing the offence of blasphemy from the Constitution would permit removing the legislative provision for the offence.

45. The Holocaust Memorial Day commemoration in Ireland is designed to cherish the memory of all of the victims of the Holocaust and to provide lessons from the past. The inclusion of all victim groups is fundamental to the commemoration, and education about anti-Semitism and all forms of intolerance is important. The Holocaust Educational Trust Ireland advises and assists the Government with organizing the annual commemoration with the involvement of the Department of Justice and Equality (through the Office for the Promotion of Migrant Integration), Dublin City Council, Dublin Maccabi Charitable Trust and the Jewish Representative Council of Ireland.

Italy

46. The Constitution provides specific protection for freedom of conscience and religious experience, taking into consideration private, collective and institutional aspects (arts. 2, 3, 7, 8 and 19). In accordance with article 3, the non-discrimination principle constitutes one of the main pillars of the basic security system. The Government has created comprehensive legislation by translating both European Union Directive 2000/43/EC and European Union Directive 2000/78/EC in order to prohibit all forms of discrimination based on race or ethnic origin, in any area or sector, both private and public, and to regulate the prohibition of discrimination on grounds of religion or belief, disability, age or sexual orientation as regards employment and occupation.

47. Italy has developed a regulatory reference framework to combat hate crimes by adopting measures to support potential victims of discriminatory actions and conduct and by means of a system of penalties. The legislation provides for the punishment of organizations, associations, movements or groups that have among their aims incitement to discrimination or to violence motivated by racial, ethnic or religious reasons. It sets out aggravating circumstances for all crimes committed on the ground of discrimination or racial hatred. By law, judicial authorities have to verify any existence of criminal content in documents, speeches and programmes made by political representatives.

48. The Office of Studies and Institutional Relations under the Presidency of the Council of Ministers is in continuous contact with and cooperates with the national organization of the Jewish community, mainly regarding issues related to the implementation of the *intesa*[1] and problems of discrimination.

49. Since 2010, the Committee for Italian Islam has focused on issues of integration and the exercise of civil rights. It has issued position papers, endorsed by the Ministry of the Interior, on the Islamic veil and places and ministries of worship. The National Office against Racial Discrimination (UNAR), established at the Department for Equal Opportunities under the Presidency of the Council of Ministers and operating as a national equality body, is entrusted by law with the promotion of equality and the eradication of discrimination; to that end, it assists victims and monitors discriminatory phenomena in Italy.

50. The Observatory for Security against Discriminatory Acts (OSCAD), established in 2010 in response to the demand for security from potential victims of discrimination,

[1] A special agreement between the Government and a religious confession, which provides, inter alia, for the autonomy and independence of a denomination and for issues fundamental for believers and religious practices. Such agreements generally include provisions for spiritual assistance in collective institutions; education; recognition of civil marriages; fiscal treatment and financial relations between the State and the religious denomination; protection of places of worship and cultural and historical assets; guarantees regarding cultural identity; free exercise of worship; religious festivities; and the organization and management of religious confessions.

adopts a comprehensive approach, including the intervention of police forces to prevent and repress hate crimes.

51. The Government of Italy stated that it was fully committed to promoting interreligious dialogue and to preventing and resolving situations of discrimination and violation of the right to religious freedom by local governments, in particular concerning the burial of non-Catholics and the construction of places of worship. In order to fight all forms of religious discrimination and societal prejudice, particularly against Jewish and Muslim communities, the Government continues, inter alia, to host meetings to increase educational awareness and interreligious dialogue, while prominent religious and government officials encourage mutual understanding. In recent years, the Ministry of the Interior funded several projects to promote interfaith dialogue within the European Integration Fund framework.

52. Italy indicated that many training activities, including human rights education for all law enforcement agencies, had been introduced. The School of Civil Administration offers training courses to law enforcement officials on issues related to anti-Semitism and the Holocaust. Several central and local administrations organized initiatives aimed at raising public awareness.

Norway

53. The Ministry of Children, Equality and Social Inclusion is responsible for coordinating integration policies for immigrants and their children, to ensure that national policies in various fields function in unison and contribute towards achieving the goals of equal rights and duties. Dialogue and cooperation between different religious and "life stance" (non-religious) communities can foster mutual understanding and achieve respect and appreciation for both differences and common values. Financial grants have been provided for the Council for Religious and Life Stance Communities, the Christian Council of Norway and the Islamic Council of Norway.

54. Authorities have a developed a system to prevent religiously motivated hate crimes, which involves municipal units, local police, political parties and civil society. Police councils and services for the coordination of local crime prevention have been set up in more than 300 municipalities.

55. In 2014, the Ministry of Children, Equality and Social Inclusion funded the Norwegian campaign entitled "Young people combating hate speech online", as part of the European No Hate Speech Movement. The campaign is aimed at combating discrimination, harassment and hate speech on the Internet, and at supporting young people and groups in society who can be especially subjected to it.

56. Norway stated that section 135 a of the Criminal Code criminalized the uttering of discriminatory or hateful statements, which were defined as threatening or insulting anyone, or inciting hatred or persecution of or contempt for anyone because of his or her skin colour, national or ethnic origin, religion or life stance, or homosexuality, lifestyle or orientation.

57. The Government has an action plan against radicalization and violent extremism. Among its 30 measures, a project is to be launched to prevent hate rhetoric and discriminatory attitudes on the Internet. Oslo police have set up a special hate-crime unit. Other measures taken to improve the response to hate crimes are police officer training involving non-governmental organizations and regular round tables with civil society to establish dialogue and cooperation.

58. Since 2012, the Government has also funded a project for the prevention of anti-Semitism, racism and undemocratic attitudes (DEMBRA), led by the Centre for Studies of the Holocaust and Religious Minorities, in cooperation with the European Wergeland Centre and the University of Oslo. The Ministry of Education and Research commissioned a study on how indigenous peoples and national, ethnic and religious minorities are described, and how questions related to immigration and cultural diversity, anti-Semitism, xenophobia, racism, extremism, terrorism and radicalization are discussed, in textbooks for schools. The Norwegian Directorate for Education and Training launched a guide on national minorities for staff in kindergartens and schools in 2014.

59. The anti-discrimination act prohibits discrimination on the basis of religion or belief, and requires public authorities to make active, targeted and systematic efforts to promote equality irrespective of ethnicity, religion or belief.

60. The State and the municipalities have a financial responsibility for the Church of Norway. For several decades, other religious and life stance communities have had a statutory right to claim an annual financial grant per member of the community from both the State and the municipalities. The grants scheme secures equal financial treatment of all religious and life stance communities in Norway. About 700 such communities, including Buddhist, Christian, Hindu, Islamic, Jewish and humanistic communities, receive financial grants under the scheme.

61. Norway noted that no allegations had been made with regard to racial profiling.

Spain

62. In Spain, four key developments and activities were carried out to implement the action plan outlined in paragraphs 7 and 8 of Council resolution 25/34. The Advisory Commission on Religious Practice (CALR) was modified by Royal Decree 932/2013 in order to enhance the presence of religious groups in the Commission and to enrich the space and dialogue of confessions within the Commission. New measures have been created to improve knowledge of the situation of religious freedom in Spain and, therefore, of religious groups, including the preparation and submission of an annual report to the Government on the situation of the right to religious freedom in Spain, and the collection of information on action by the public administration related to the development and exercise of the right to religious freedom, thus strengthening the ability of CALR to obtain information on situations that can affect religious groups and believers and to raise its conclusions with government authorities. Specific working groups study and analyse issues affecting religious groups with a view to finding out more about their situation and identifying joint solutions, alternatives or initiatives to improve social life.

63. Spain participates in the King Abdullah Bin Abdulaziz International Centre for Interreligious and Intercultural Dialogue, located in Vienna, which seeks to enable, empower and encourage dialogue among followers of different religions and cultures around the world. In November 2013, a government delegation from Spain participated in the international conference entitled "The image of the other" aimed at implementing best practices in interreligious and intercultural education developed in the Euro-Mediterranean region.

64. The Observatory for Religious Pluralism in Spain developed a knowledge transfer tool underpinned by an agreement among the Ministry of Justice, the Spanish Federation of Municipalities and Provinces (FEMP) and the Pluralism and Coexistence Foundation for public management of religious diversity. The Observatory produces management guides and serves as a reference portal for religious groups and communities and confessions,

researchers and the general public. The European Commission designated the Observatory as a good practice in combating religious intolerance (see www.observatorioreligion.es).

65. The Pluralism and Coexistence Foundation developed a training plan related to the leadership and management of religious organizations and groups. Its general objectives are to increase knowledge of the regulatory framework concerning freedom of conscience and religion in Spain and of the management procedures necessary for the constitution and functioning of religious entities and their places of worship, and to improve the dialogue between religious entities and municipal authorities. The Foundation collaborates with various municipal authorities.

Syrian Arab Republic

66. The Syrian Arab Republic indicated that media discussions and talk shows to raise awareness about religious values and the risks associated with hatred and incitement had been broadcast in the country.

67. Networks and dialogues in which all religious leaders, as well as politicians and academics, take part have been established. The national educational curriculum is used to maintain moderate religious values and to encourage tolerance domestically, and a new e-school project was established to promote opportunities for students to have access to and follow Ministry of Education curricula. The Syrian Arab Republic stated that, unfortunately, given the current conflict situation, "books and leaflets were introduced by terrorist groups" to promote "*takhfiris*".

68. The Government reported that it was aware of the dangerous role the media could play in the promotion of incitement, noting the use of media to promote fatwas that justified terrorism and sexual slavery, and that incited discrimination, violence and destruction of the religious sites of others and the killing of minorities.

69. The Syrian Arab Republic stated that a new mechanism had been adopted to decrease tensions among specific religious groups, tensions that had not previously existed in the country. The Ministry of Religious Affairs has adopted a mechanism that enables it to oversee all religious groups, achieve equality among them and integrate them in the country's activities and planning. The role of the Ministry of National Reconciliation is to protect Syrian society, especially during the ongoing conflict, and support has been provided to religious leaders, particularly through consultation with them. The Union of Scholars of Bilad al-Sham (the Levant) was assigned to promote moderate religious values and improve understanding between all sects and schools of thought. Meetings between Muslim and Christian leaders and joint training and seminars have been organized to promote tolerance and equality in all components of Syrian society.

70. Religious freedom is encouraged through the enhancement of the capacity of individuals of different religions to profess their religion. The Syrian Constitution guarantees the right to practise all religious beliefs and the social diversity of the Syrian society as a national heritage which serves to improve national unity. Freedom of religion applies equally to all citizens in the enjoyment of rights and obligations and guarantees the right to contribute to economic, social and cultural life, without discrimination.

71. The Syrian Arab Republic stated that the phenomenon of religious profiling was non-existent in the country; however, existing laws, such as the Penal Code and the Military Penal Code, were in place to combat it.

72. The Syrian Arab Republic suggested actions to address issues of incitement to racial, national and religious hatred, including the following: (a) use the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement

to discrimination, hostility or violence as a framework to combat incitement to hatred; (b) promote tolerance in the educational system in order to combat discrimination in the educational system; (c) promote the depoliticization of religion; (d) continue dialogues at all levels and between countries as a way to "guarantee the specificity of all nations"; and (e) adopt mechanisms to hold accountable those countries that have jurisdiction over individuals and organizations that incite religious intolerance.

Turkey

73. Freedom of religion and conscience is guaranteed by the Constitution and relevant legislation. Minority rights in Turkey are regulated in accordance with the Treaty of Lausanne, under which Turkish citizens belonging to non-Muslim minorities fall within the scope of the term "minority".

74. A number of foreign clergy have been registered in Turkey to serve in places of worship with the relevant working permit. There are 387 places of worship belonging to non-Muslim communities, including 87 churches run by foreigners residing in Turkey. Non-Muslim places of worship are administered by their own associations or foundations and property rights regarding places of worship rest with the real or legal persons who founded them. A decree amending the Law on Foundations was published in August 2011, improving the situation of non-Muslim community foundations regarding the registration of their property.

75. On 13 May 2010, the Office of the Prime Minister issued a circular confirming that all Turkish citizens, independent of their religious communities, constitute an inseparable part of Turkey, and urging all related government institutions and offices to act with the utmost diligence for the elimination of problems encountered by non-Muslim minorities.

76. Positive steps continued to be taken in favour of different faith groups in the areas of education and culture. The Ministry of National Education reviews course materials annually to remove connotations that might be perceived as discriminatory by different faith groups. Pursuant to a request from Assyrian citizens, the Ankara 13th Administrative Court has ruled that Assyrian language courses can be delivered along with the curriculum of the Ministry of Education on certain days or during certain hours of the week in a preschool to be opened under a community foundation.

77. Permission was granted to a Greek minority school in Gökçeada to reopen in the academic year 2013/14, following the demand of the Greek community.

78. Since 28 February 2012, newspapers belonging to minorities, as defined in the Treaty of Lausanne, have been allowed to publish official advertisements upon written application.

79. The "democratization package" of September 2013 brought about significant improvements in the area of freedom of religion and conscience, as the ban on women wearing headscarves in public service was lifted and sanctions for preventing persons from individual worship and fulfilling requirements of religious beliefs were introduced in the Turkish Penal Code. Lifestyle is protected by law and, for the first time, hate crimes are punishable under the Code.

80. The title of article 122 of the Turkish Penal Code was changed from "discrimination" to "hatred and discrimination" within the framework of Law No. 6529 of 2 March 2014, and the penalty for the offence has been increased. Article 216 of the Turkish Penal Code regulates the prevention of incitement to social, racial, religious or regional enmity or hatred. In addition, under article 115 of the Code the act of hindering the exercise of freedom of belief, thought and conviction is punishable, while article 153

penalizes acts of damage to places of worship, such as churches and mosques, and the property used in such places, and to cemeteries and the facilities and protective structures thereof.

81. Turkey cited a number of other laws and regulations that prohibit discrimination on the basis of race, language, sex, religion, political opinion, nationality or social origin.

United Kingdom of Great Britain and Northern Ireland

82. The United Kingdom outlined key legislation to protect victims and tackle offenders, including provisions setting out specific offences relating to stirring up hatred on the grounds of race, religion, belief and sexual orientation (under Part III and Part IIIA of the Public Order Act 1986 as amended); separate racially and religiously aggravated offences, which carry a higher maximum penalty than non-aggravated offences (under the Crime and Disorder Act 1998); and powers for the courts to increase the sentence of an offender convicted of a crime where hostility towards the victim is based on several grounds, to reflect the seriousness of hate crime (Criminal Justice Act 2003).

83. In March 2012, a cross-Government action plan was published in England to tackle hate crime, bringing together the work of a wide range of departments and agencies to: prevent hate crime; increase reporting and victims' access to support; and improve the operational response to hate crimes. It includes specific work programmes to tackle anti-Semitism and anti-Muslim hatred and actions to better engage with disabled and transgender persons, Gypsy, Traveller and Roma communities and new migrants and to tackle racism, homophobia and transphobia in sports.

84. Recently, a review of actions to tackle hate crime was conducted. Close cooperation with a wide range of voluntary sector and community representatives, front-line organizations and the Government's Independent Advisory Group on Hate Crime is ongoing, which provides insight into the day-to-day experience of hate crime.

85. In that context, one of the challenges that have continued to evolve is the task of removing hate material from mass media channels such as the Internet, while protecting freedom of expression. The Government is working with the police and the Independent Advisory Group on Hate Crime to build relationships with leading social media providers and to improve their response to offensive and illegal hate-related content online, including through support to the international working group of the Inter-Parliamentary Coalition for Combating Antisemitism, to find collaborative solutions to reduce the harm caused by hatred on the Internet.

86. With regard to anti-Muslim hatred, police forces across the country work together with Muslim communities and organizations to provide reassurance, security measures and safety advice. In some areas 24-hour police patrols are in place to safeguard high-profile premises. The United Kingdom outlined a number of projects under way, including: (a) the first cross-Government working group on anti-Muslim hatred; (b) the launch of Tell MAMA, the first third-party reporting service to record incidents and support victims of anti-Muslim hatred; (c) the hosting of the first Srebrenica Memorial Day in the United Kingdom; (d) support from the Department of Communities and Local Government for social media workshops aimed at countering hatred online in Birmingham and Leeds, following two initial workshops held in London and Manchester; and (e) a number of road shows held by the Department of Communities and Local Government around the United Kingdom in March and April 2014 to promote the work of integration and combat anti-Muslim hatred, and to engage with the communities to find out what more the Government can do.

87. With regard to anti-Semitism, the United Kingdom continues to be a strong supporter of work in international organizations to combat anti-Semitism. It plays a leading role in the Organization for Security and Cooperation in Europe (OSCE) activities in relation to the Berlin Declaration to combat hate crime, including anti-Semitic hate crime, and was represented at ministerial level at the OSCE conference in November 2014 marking the tenth anniversary of the Declaration.

88. With the London Jewish Cultural Centre, the United Kingdom organized two seminars for journalists on how to report sensitively on difficult issues without fuelling anti-Semitism.

89. The United Kingdom is the Chair of the International Holocaust Remembrance Alliance, which is working on a new multi-year work programme for all member States to improve the ways in which they teach, research and commemorate the Holocaust. The new work programme gives priority to the study of the killing sites across Europe, renewed efforts to open up closed public and private archives, wider dissemination of good practice in Holocaust teaching in schools and the raising of the profile of Holocaust remembrance days.

United States of America

90. The Constitutional prohibition on the establishment of a religion by the Government, along with protections for freedoms of speech and association, as well as further protection of those freedoms for all individuals, have contributed to combating intolerance and discrimination against persons on the basis of religion or belief. The United States of America stated that robust protections on freedoms of expression, religion, association and assembly formed the basis for pluralism in the United States and for the ability of members of all religious communities and non-religious communities to participate fully in society and to contribute openly on an equal footing. (See www.justice.gov/crt/spec_topics/religiousdiscrimination/).

91. At the Department of Justice, the Special Counsel for Religious Discrimination coordinated legal cases involving religion-based discrimination among the various sections of the Civil Rights Division and oversaw outreach efforts to religious communities. The Division has actively enforced the Religious Land Use and Institutionalized Persons Act of 2000, which protects houses of worship from discriminatory or unjustifiably burdensome zoning regulation. The efforts of the Equal Employment Opportunity Commission and the Civil Rights Division have also included outreach to affected communities, Commission guidance, fact sheets, question and answer documents for employers, and enforcement efforts by both agencies.

92. The Community Relations Service at the Department of Justice works on engagement with members of diverse communities, encouraging the creation of collaborative networks and creating mechanisms to work with different communities with regard to potential areas of conflict. The Service has created a set of "best practices" to address hate crimes and has worked directly with hundreds of rural, suburban and urban governments to help eliminate racial distrust and polarization and provide assistance to bring together law enforcement agencies and members of minority neighbourhoods. It also created a law enforcement roll-call video entitled *The First Three to Five Seconds*, which helps police officers reduce tension by differentiating between threats and cultural norms in non-crisis situations.

93. The Office for Civil Rights and Civil Liberties at the Department of Homeland Security also conducts public outreach and engagement initiatives with groups, including American Arab, Muslim, Sikh, Somali, South Asian and Middle Eastern communities, such

as conducting regular community leader round tables in eight cities and youth round tables around the country. Training is also provided for law enforcement personnel and intelligence analysts, where topics of discussion include addressing misconceptions and stereotypes of Islam and Muslims, a how-to guide for community interaction, effective policing that actively prohibits racial or ethnic profiling, and federal approaches to engagement and outreach.

94. The President and other senior government officials have spoken out against intolerance. The United States sponsors and encourages interfaith dialogue.

95. The United States also engages in international efforts to foster a global dialogue. It hosted an expert-level meeting on implementing Human Rights Council resolution 16/18 in Washington, D.C. in December 2011, developed a country-to-country workshop programme to explore best practices in implementing the resolution during 2013 in Bosnia and Herzegovina, Greece and Indonesia, and planned additional programmes in 2014.

96. On potential further follow-up measures, the United States stressed the importance of encouraging States to implement the steps outlined in resolution 25/34. Implementation meetings on best practices were helpful to that effort; such meetings should be focused on concrete steps outlined in the text and involve domestic officials charged with implementing government policies on those issues. The United States stated that "meetings that seek to explore issues beyond implementation of the text, or which do not include experts, will distract from implementation efforts and will fail in addressing the concerns set forth in the resolution text". It also noted the importance of involving civil society in implementation efforts. Reporting to the Office of the United Nations High Commissioner for Human Rights (OHCHR) on the implementation of the steps outlined in the resolution was an important measure of progress, and States should be encouraged to contribute to such reporting.

III. Activities undertaken by the Office of the United Nations High Commissioner for Human Rights

97. OHCHR continued to work on follow-up to the Rabat Plan of Action and the implementation of Human Rights Council resolution 16/18 and its successor resolutions, including 25/34, as well as similar resolutions of the General Assembly, at the national and international levels. The Office organized events to consider issues related to combating religious intolerance. For instance, it held a panel discussion for the International Day of Commemoration in memory of the victims of the Holocaust on 28 January 2014 in Geneva. In September 2013, a database on best practices that includes pertinent information on incitement to national, racial or religious hatred was launched.

98. In terms of technical assistance, specific thematic events were organized in Belarus and Tunisia. In cooperation with the United Nations Development Programme and the Belarusian Ministry of Foreign Affairs, a seminar entitled "Combating incitement to hatred, xenophobia and related intolerance in cyberspace" was held in Minsk on 2 and 3 September 2014. The seminar considered national and international efforts to combat incitement to hatred, xenophobia and related intolerance on the Internet, and the role of national and international media in combating hate speech, xenophobia and related intolerance.

99. In Tunis, from 16 to 18 October 2014, OHCHR and the United Nations Educational, Scientific and Cultural Organization jointly held a regional workshop on the role of civil society and media in promoting tolerance and diversity in the Middle East and North African region, in the light of the Rabat Plan of Action. Participants in the workshop suggested concrete steps towards the establishment of an effective regional civil society partnership against incitement to hatred, which could develop into a structured coalition in

the future. Focal points from each of the participating countries agreed to begin working together on the modalities of the establishment of a regional coalition.

100. A conference on combating religious intolerance is planned for 2015, to contribute to the practical implementation of Human Rights Council and General Assembly resolutions on combating intolerance, negative stereotyping, stigmatization, discrimination, incitement to violence and violence against persons, based on religion or belief, aimed at increasing practical exchange and dialogue on issues of freedom of religion and belief by Governments and other actors.

IV. Conclusions

101. **The Office of the United Nations High Commissioner for Human Rights received 15 replies to the note verbale sent pursuant to paragraph 12 of Human Rights Council resolution 25/34, in which the Council invited submissions from Member States. Responding States reported broadly on their efforts in relation to the provisions contained in paragraphs 7 and 8 of the resolution. The High Commissioner invites States to consider requesting more focused submissions on a limited number or specific provisions of the resolution.**

102. **The information provided by States on their efforts and measures for the implementation of the action plan outlined in paragraphs 7 and 8 of the above-mentioned resolution indicates that the steps taken by States are largely policy oriented or legal in nature, with many enshrining protection against discrimination on the basis of religion or belief in national constitutions, criminal codes and civil laws and regulations.**

103. **A number of States are working to address hate crimes at the domestic level. Advocacy of incitement to hatred is for the most part criminalized and often prohibited on several grounds, including religion or belief. It was also noted that protecting freedom of expression and opinion was important to ensuring equality and countering religious intolerance.**

104. **Extremism and radicalization, often leading to hate crimes and violence, were being addressed through social cohesion and integration programmes and police and security responses, often coupled with regular engagement and interaction with grass-roots communities and young people, and data gathering and monitoring. A number of States have governmental strategies or plans in place to address issues of extremism and radicalization.**

105. **Almost all of the States that contributed information provide for a channel or some form of communication and consultation between religious groups and communities and government authorities. Numerous practical examples were cited of established networks, communication bodies and/or forums between State institutions and religious groups or communities, with some focused on policing and security matters and others serving as general forums of exchange.**

106. **Intolerance, stigmatization, negative stereotyping and discrimination, in particular, are addressed also through public awareness-raising campaigns and educational measures. States also fund local and national projects aimed at promoting capacity-building, social cohesion and interfaith dialogue and increasing the participation of religious groups and communities.**

107. **Most States reported that there was religious freedom and pluralism domestically and that members of religious groups and communities were able to manifest their religion and contribute openly and on an equal footing in society.**

Religious freedom is often guaranteed at the constitutional level, and in accordance with domestic law. Several responses referred to the domestic legal frameworks, and subsequent amendments improving them, that allowed the practice of one's religion and provided for the functioning and management of religious communities and associations.

108. **Training on human rights, tolerance, anti-discrimination and the prevention of stereotypes is provided for government officials and public functionaries, especially in law enforcement, police and security services, in some countries. Some respondents noted that no issues of religious profiling had been identified domestically.**

109. **Some States undertake national and international initiatives to combat incitement to hatred, xenophobia and related intolerance on the Internet, and to address the role of the media in combating hate speech, xenophobia and related intolerance, including on the Internet. The Internet was generally identified as a medium for hate speech. However, it is also used as a means to tackle issues associated with discrimination on the basis of religion or belief, as it presents a forum for exchange, expression, dialogue, education, knowledge-management and information-sharing between and among networks, security officials and communities.**

United Nations A/HRC/28/48

General Assembly

Distr.: General
8 January 2015

Original: English

Human Rights Council
Twenty-eighth session
Agenda items 2 and 10
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Technical assistance and capacity-building

Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Afghanistan and on the achievements of technical assistance in the field of human rights in 2014

Summary

The human rights situation in Afghanistan in 2014 has been negatively affected by the contested security, political and economic transitions. Anti-Government elements sought to exploit the uncertainty by increasing their offensives, resulting in more ground engagements and a rising toll in civilian casualties. In the first 11 months of 2014, civilian deaths and injuries from conflict-related violence increased by 19 per cent compared with the same period in 2013. 2014 has become the year with the highest number of civilian deaths and injuries recorded by the United Nations Assistance Mission in Afghanistan (UNAMA) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) since 2009.

Unaddressed pervasive violence against women and girls and impunity for abusive detention practices, including torture, continued.

Despite the worsening conflict and continuing human rights violations, with the formation in September 2014 of the National Unity Government committed to a reform agenda, there is a genuine opportunity to consolidate and expand human rights protections. For reforms to take root, they must be reinforced by accountability for those who commit human rights violations.

UNAMA/OHCHR have continued to pursue an overall strategy of "embedding human rights in Afghanistan" in support of all Afghans. Through targeted research and documentation, reporting, advocacy and engagement in strategic partnerships and dialogue with government, national institutions and civil society actors and communities as well as international partners across Afghanistan.

GE.15-00230 (E)

1500230

Please recycle

UNAMA/OHCHR have prioritized four areas: protection of civilians in armed conflict, including children; elimination of violence against women; prevention of torture and arbitrary detention; and human rights aspects of peace and reconciliation processes. In addition, UNAMA/OHCHR is providing support and advocacy to strengthen the effectiveness and independence of the Afghanistan Independent Human Rights Commission. These priorities reflect the UNAMA mandate and highlight the main human rights concerns of the Afghan people. These priorities also serve as key areas for the newly elected Afghan Government to focus upon, as part of their reform agenda following the transfer of security and other responsibilities from international actors.

Contents

		Paragraphs	*Page*
I.	Introduction	1–6	4
II.	Protection of civilians	7–27	5
	A. Anti-Government elements	10–14	5
	B. Pro-Government forces	15–19	6
	C. Children and armed conflict	20–27	8
III.	Protection from arbitrary detention and respect for fair trial rights	28–37	9
IV.	Violence against women and promotion of women's rights	38–45	11
V.	Peace and reconciliation, including accountability and transitional justice	46–47	13
VI.	Support to national institutions	48–51	14
VII.	Cooperation with United Nations human rights mechanisms	52–54	15
VIII.	Conclusion	55–56	16
IX.	Recommendations	57–59	16

I. Introduction

1. The present report is submitted pursuant to Human Rights Council decision 2/113 of 27 November 2006 and its resolution 14/15 of 18 June 2010, and has been prepared in cooperation with the United Nations Assistance Mission in Afghanistan (UNAMA). Since the previous report (A/HRC/25/41), the human rights situation in Afghanistan has been negatively affected by the contested security, political and economic transitions that concluded in 2014.

2. Presidential elections took place on 5 April, in which no candidate won more than 50 per cent of the vote, and a second-round run-off was held on 14 June between the two leading candidates. The determination displayed by millions of Afghans to cast their ballots and the performance of the Afghan security forces in the face of insurgency threats were welcomed within the country and internationally. Although civilian casualties on the election days were high (532 in total), the insurgency did not cause significant disruption to the process.

3. In the weeks after the vote, political tensions over allegations of fraud led to a serious political impasse, with grave destabilizing consequences for the political, security, economic and social environment. The situation was resolved following mediations by the United Nations and the international community, and agreement by the two contenders to an internationally observed audit. This resulted in the inauguration of Asraf Ghani as President and in the formation of a government of national unity committed to a reform agenda, with Abdullah Abdullah as Chief Executive Officer. These political developments give reasons for cautious optimism amid the persistent insecurity.

4. Of grave concern is the significant increase in the number of civilian casualties from the already elevated numbers of 2013. From January to November 2014, civilian deaths and injuries from conflict-related violence increased by 19 per cent compared with the same period in 2013. This is the highest number of civilian casualties recorded by UNAMA/OHCHR since 2009. While three-quarters of all civilian deaths and injuries were caused by anti-Government elements, a rise in civilian casualties caused by Afghan Government forces was also documented. For the first time, ground engagements became the leading cause of civilian casualties, with civilians increasingly killed or injured in the crossfire. This increase in civilian casualties disproportionately affected children: child casualties were 33 per cent higher than those recorded in 2013. From January to November 2014, at least 44 children were killed or injured every week in Afghanistan.

5. Phase II of the Afghan People's Dialogue on Peace, which was launched in April 2013, was completed in 2014. The project promotes an inclusive, rights-based approach to peace and reconciliation efforts by enabling Afghans to express their views on prospects for peace, reconciliation, security, economic development, human rights, justice and the rule of law. UNAMA/OHCHR has supported civil society to lead in delivering this project. Phase II led to the development of 34 provincial road maps, which are being used as an advocacy tool by civil society. The People's Dialogue steering committee has requested to present the findings and recommendations of the report to President Ghani.

6. The prevalence of violence against women and girls and a lack of accountability in that regard continued to be of serious concern. The Government released its latest report on the implementation of the Law on the Elimination of Violence against Women, indicating a 20 per cent increase in the recorded incidents of violence against women (5,406 incidents), of which 3,715 constituted acts that could be prosecuted under the Law. In the report, the Government noted that mediation of cases of violence against women — including for serious crimes — was prevalent. Over the course of 2014, the Ministry of Interior has made

significant progress in developing policies and directives aimed at enhancing protection of policewomen in the workplace. Afghan women's participation in the 2014 Presidential and Provincial Council elections was strong. However, women's political representation decreased owing to the 2013 amendments to the Electoral Law, which reduced the number of seats reserved for female representatives in the Provincial Council.

II. Protection of civilians

7. Conflict-related violence increasingly affected civilians in 2014, with an increase in the number of civilian casualties from the already elevated numbers of 2013. Attacks by anti-Government elements (Taliban and other armed opposition groups) against Afghan National Security Forces increased as insurgents sought to exploit uncertainty surrounding the presidential election and assert control as transition of security responsibilities from international military forces to Afghan forces concluded. Increasing pressure from anti-Government elements and a high number of casualties experienced by Afghan National Security Forces caused Afghan forces to concentrate on force protection and recovering disputed territory, which limited their primary role in protecting civilians from conflict-related violence.

8. From January to November 2014, civilian deaths and injuries from conflict-related violence increased by 19 per cent compared with the same period in 2013. 2014 thus became the year with the highest number of civilian deaths and injuries recorded by UNAMA/OHCHR since 2009. Between 1 January and 30 November 2014, UNAMA/OHCHR documented 9,617 civilian casualties (3,188 civilians killed and 6,429 injured). UNAMA attributed 75 per cent of civilian casualties to anti-Government elements, 11 per cent to pro-Government forces, consisting of Afghan National Security Forces and international military forces, and 9 per cent to ground engagements between pro-Government forces and anti-Government elements in which attribution was not possible. Four per cent of civilian casualties were unattributed, resulting mainly from explosive remnants of war, while the remaining one per cent resulted from by cross-border shelling.

9. A new trend in 2014 was an increase in civilian casualties from ground engagements between Afghan National Security Forces and anti-Government elements, particularly in civilian populated areas. These caused the most civilian casualties. In previous years, improvised explosive devices used by anti-Government elements consistently caused the highest number of civilian casualties. The increased focus by the conflicting parties on asserting control on the ground gave rise to larger numbers of armed clashes between anti-Government elements and pro-Government forces, particularly in the eastern, south-eastern and southern regions.

A. Anti-Government Elements

10. Seventy-five per cent of all civilian casualties during 2014 were attributed to anti-Government elements (which includes a range of armed opposition groups) — the same number recorded in the same period in 2013. The Taliban also claimed responsibility for an increased number of incidents which caused a total of 1,700 civilian casualties, 88 per cent higher than in the same period in 2013, although, as in previous years, for the majority of incidents that UNAMA/OHCHR attributed to anti-Government elements, there has been no claim of responsibility.

11. Between 1 January and 30 November 2014, improvised explosive devices and suicide/complex attacks by anti-Government elements together accounted for 46 per cent of all civilian deaths and injuries. Improvised explosive devices alone accounted for 800

civilian deaths and 2011 injured (2,811 civilian casualties), up five per cent from the same period the previous year. After a decrease of 44 per cent in civilian casualties from pressure-plated devices in 2013, the number of civilian casualties from those devices increased again in 2014 by nine per cent. In a particularly grave incident on 23 November 2014, in Yahyakhel district of Paktika province, a suicide attacker detonated a body-borne improvised explosive device among a large crowd at a local volleyball tournament. The suicide bomber was allegedly targeting members of the Afghan Local Police among the crowd. Fifty-eight civilians were killed, including 21 children, and 85 were injured, including 26 children. The anti-Government element group responsible for this attack has not been determined.

12. Throughout 2014, anti-Government elements continued to target and kill civilians who worked for or were perceived to support the Government or Afghan and international military forces. Between 1 January and 30 November, UNAMA/OHCHR documented 967 civilian casualties (649 civilian deaths and 318 injured) from targeted killings — a decrease of 11 per cent as compared with the same period in 2013. In many cases, which led to 63 per cent of the casualties, the Taliban claimed responsibility for the targeted killings on their website. On 30 August 2014, for example, the Taliban claimed responsibility for having killed 12 labourers and injured five in Farah Province, alleging that they were members of a pro-Government militia.

13. Anti-Government elements attempted to disrupt both rounds of the 2014 presidential election by threatening and targeting civilians involved in the electoral process. On the weekend of the first round of the election (held on 4 and 5 April), 211 conflict-related incidents caused 208 civilian casualties (45 killed and 163 injured). Most of the incidents (91 per cent) directly targeted voters, candidates, employees of the Independent Elections Commission or police officers providing security to polling centres. On the weekend of the second round of the elections (on 13 and 14 June), violence increased, with 169 conflict-related incidents affecting civilians, causing 324 civilian casualties (82 deaths and 242 injured). Again, most of the incidents (85 per cent) directly targeted participants in the election. In a serious incident on 14 June in Herat, the Taliban cut off the fingers of 12 men after they had cast their vote. The attacks by anti-Government elements did not result in significant disruption to the electoral process.

14. Anti-Government elements increasingly threatened and targeted religious leaders. UNAMA/OHCHR documented 24 incidents in which religious leaders or places of worship were directly threatened or attacked, resulting in 58 civilian casualties (18 deaths and 40 injured). The total number of casualties caused by attacks against religious leaders and places of worship grew by 57 per cent over the same period in 2013. The majority of the attacks targeted mullahs performing funeral ceremonies for deceased members of Afghan security forces and religious figures who had expressed public support for the Government. In the first 11 months of 2014, the number of incidents of punishments, including executions, amputations and beatings by "parallel courts" operated by anti-Government elements also doubled and the number of resulting civilian casualties quadrupled to a total of 92, with 77 civilians killed and 15 injured.

B. Pro-Government forces

15. From 1 January to 30 November 2014, UNAMA/OHCHR documented 1,085 civilian casualties (446 civilian deaths and 639 injured) attributed to pro-Government forces, a 21 per cent increase from 2013. The rise is attributed to an increase in offensive operations and counter-attacks by Afghan National Security Forces against anti-Government elements in contested areas. For example, on 18 August, 14 civilians,

including four women and four children, were killed, and 14 others injured in an Afghan National Army operation in Kunduz city.

16. With the conclusion of the security transition in 2014, UNAMA/OHCHR highlights the lack of a permanent structure in relevant bodies of the Afghan National Security Forces to systematically investigate allegations of civilian casualties, initiate remedial measures and take follow-up action. The Civilian Casualties Tracking Team in the Presidential Information Coordination Centre, which was established in May 2012, does not receive complaints from individuals or organizations, and only records reports of civilian casualties received from security bodies. UNAMA/OHCHR has not observed any improvement in the accountability of Afghan National Security Forces as incidents in which they have caused civilian casualties have not been investigated or led to prosecutions. The new Government has pledged to make the mitigation of civilian casualties a priority, with operational procedures related to night raids and the use of mortar fire in civilian populated areas under revision.

17. Human rights violations attributed to the local police were documented by UNAMA/OHCHR in several regions. From 1 January to 30 November 2014, UNAMA/OHCHR documented 89 civilian casualties caused by the local police (44 deaths and 45 injured), a 20 per cent decrease compared with 2013. However, the number of civilian deaths attributed to the local police increased by 42 per cent. In most cases, the deaths and injuries resulted from members of the local police committing human rights violations, including punishments and revenge killings. The current mechanism for accountability — the monitoring and investigations section of the Directorate of the Ministry of Interior for the local police — has shown limited results in 2014. There have been only a small number of prosecutions and convictions for human rights violations committed by the local police, and the Directorate is not mandated to monitor and follow-up on prosecutorial steps, which limits its effectiveness in promoting accountability within the local police.

18. Explosive remnants of war continued to pose a serious hazard to civilians, particularly children. Civilian casualties from remnants increased by 10 per cent, which was attributed to the growing number of ground engagements. Following sustained advocacy by UNAMA/OHCHR, the International Security Assistance Force (ISAF) and the international community continued to take significant steps to ensure that firing ranges no longer in use were cleared of unexploded ordnance. ISAF conducted surface clearance of more than 20 ranges and pledged to complete the surface clearance of all firing ranges early in 2015 (ahead of December 2015, as initially proposed). In October 2014, the Congress of the United States of America approved $250 million to carry out subsurface clearance where required on high-explosive firing ranges. With the sharp rise in ground engagements in 2014 and the associated risk of unexploded ordnance, it is imperative that Afghan National Security Forces be fully supported to mark hazardous areas, ensure clearance of unexploded ordnance from the battlefield and continue awareness-raising programmes to educate children on the dangers of unexploded ordnance. UNAMA/OHCHR condemned the killing by anti-Government elements of 11 Afghan deminers and the wounding of another 6 in an attack in Helmand province on 13 December.

19. Civilian casualties from aerial operations followed the downward trend observed by UNAMA/OHCHR in 2013; the total civilian casualties caused by aerial operations decreased by 21 per cent from January to November 2014, with 92 killed and 54 injured. Civilian deaths and injuries from remotely piloted aircraft (drones) decreased by 10 per cent, killing 31 civilians and injuring 22. On 26 August, a drone strike in Kunduz province killed two civilians and injured six, including two children. More than 10 civilian houses were also damaged. UNAMA/OHCHR has urged international military forces to review

thoroughly pre-engagement targeting criteria and take the required precautionary measures to prevent civilian casualties.

C. Children and armed conflict

20. During the reporting period, the changing nature of the conflict had a disproportionate impact on children. Child casualties reported and verified between 1 January 2014 and 30 November 2014 were 33 per cent higher than those recorded during the same period in 2013. Between 1 January and 30 November 2014, the United Nations-led country task force on monitoring and reporting verified 925 incidents of killing and maiming out of a total of 995 reported incidents. The verified incidents indicate that at least 597 children (442 boys, 131 girls and 24 gender unknown) were killed and a further 1,501 children (1,075 boys, 374 girls and 52 genders unknown) were injured. Between January and November 2014, at least 44 children were killed or injured every week in Afghanistan.

21. Ground engagements caused the highest number of child casualties — 1,014 killed or injured. Improvised explosive devices were the second leading cause of child deaths and injuries, amounting to 568 casualties — all attributed to anti-Government elements. Explosives remnants of war caused 264 child casualties — including 226 boys — during the period under review. Suicide attacks by anti-Government elements resulted in 198 child casualties, with the highest numbers recorded in the southeast region. Air strikes by international forces killed and injured 31 children during the period under review. Anti-Government elements were responsible for 56 per cent of the total child casualties reported and verified, and international and Afghan security forces were responsible for 15 per cent. The remaining 27 per cent of the casualties remained unattributed.

22. From January to November 2014, the task force documented 203 reports of attacks against schools and related personnel or school occupation. The 155 verified incidents represent a sharp increase compared with the same period in 2013, when 73 such incidents were reported. Attacks against schools included both deliberate targeting as well as incidents that impeded access to education, including crossfire, improvised explosive device placement or detonations on the premises of schools, abduction of staff, intimidation and harassment of education personnel. At least 79 of the verified incidents in 2014 resulted from the direct targeting of schools used as polling centres during the presidential elections.

23. During the period under review, 45 incidents of underage recruitment, involving 53 boys and 2 girls, were reported to the task force, of which it was only possible to verify 14 incidents. The children were recruited allegedly to carry out different types of military activities, such as planting improvised explosive devices, transporting explosives, carrying out suicide attack, spying and for sexual purposes. At least eight recruited boys lost their lives and six boys were injured while planting or assembling improvised explosive devices or carrying out suicide attacks. Of the verified incidents, anti-Government element groups were responsible for the recruitment of 15 boys, while 1 boy was recruited by the Afghan local police and one by a pro-Government militia in the northeast region. A decrease was noted in the number of child recruitment compared to 2013, when the recruitment and use of 79 children was reported.

24. Members of armed groups and armed forces in Afghanistan continued to abduct children. During the period under review, 20 incidents of abduction were reported, involving 35 children (34 boys and a girl), of which the task force was able to verify 14 incidents affecting 21 boys and a girl. Anti-Government elements, mostly the Taliban, were responsible for 12 verified incidents. The abduction of a boy and a girl was attributed to pro-Government forces.

25. Anti-Government elements, including the Taliban, also continued to deny humanitarian access to children in the areas under their control. UNAMA/OHCHR was able to verify 66 such incidents out of 74 reported. Verified incidents included abduction, intimidation, killing and injury of humanitarian staff, mostly of deminers, denying access to vaccinators and causing damage to facilities run by humanitarian organizations.

26. Despite progress made by the Government, information gathered by the task force highlights that many challenges remain in the full implementation of the Government's action plan for the prevention of underage recruitment, including limited age-determination procedures and reports of under-18s recruited, both by the Afghan National Police and the local police. As such, in the most recent report of the Secretary-General on children and armed conflict (A/68/878–S/2014/339) the national police and the local police remained listed for underage recruitment.

27. The Government, with support from UNAMA/OHCHR and the United Nations Children's Fund, developed a road map towards compliance of the action plan for the prevention of underage recruitment. This was endorsed by the Interministerial Steering Committee on Children and Armed Conflict and progress has been made in its implementation. As part of the road map, UNAMA/OHCHR provided technical support for drafting of a presidential decree to criminalize underage recruitment. It was adopted by the lower house on 1 November and was pending approval by the upper house of Parliament at the time of finalizing the present report. Age assessment practices are being strengthened through the development of national guidelines. Another milestone, which can contribute to reducing underage recruitment, was endorsement by the Minister of Interior of the national birth registration strategy.

III. Protection from arbitrary detention and respect for fair trial rights

28. Over the past year, Afghanistan's prison population decreased from 32,157 adult and juvenile detainees and prisoners in 2013 to 27,859 (as at 22 October 2014). These figures comprise 12,221 detainees and 15,638 prisoners housed in Central Prisons Directorate facilities and the juvenile corrections and rehabilitation centres across Afghanistan.

29. The prison population included 7,555 persons detained or imprisoned in connection with the armed conflict, but excluded persons held by the national police or the National Directorate of Security in pretrial custody. In the majority of cases, conflict-related detainees are held arbitrarily for extended time periods, in violation of legally prescribed time limits and due process guarantees under Afghan law, in particular the 2014 Criminal Procedure Code. Most of these detainees do not have access to defence counsel, have not been informed of the charges against them and have not been brought before a tribunal while in the custody of the national police and National Directorate of Security.

30. Treatment of conflict-related detainees while in the custody of the national police and National Directorate of Security remains a major human rights concern. In 2014, as in previous years, torture usually took the form of coercive interrogation techniques in which Afghan officials inflicted severe pain and suffering on detainees during interrogations aimed mainly at obtaining a confession or information. A newly identified trend is to outsource torture to small and remote detention facilities to which detention-monitoring organizations have no access owing to the prevailing insecurity in Afghanistan. UNAMA/OHCHR is due to issue its third major report on human rights concerns regarding the treatment of conflict related detainees in early 2015.

31. One key recommendation of the UNAMA/OHCHR 2013 detention report, still unimplemented almost two years on, is the creation of an independent national preventive

mechanism on torture in line with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment — which Afghanistan has not yet ratified — which could be located within the Afghanistan Independent Human Rights Commission, with authority and enhanced capacity to inspect all detention facilities. UNAMA/OHCHR also encourages the Government to invite the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to visit Afghanistan so that he can provide advice on efforts to address the issue of torture and ill-treatment.

32. Throughout 2014, the monitoring activities of UNAMA/OHCHR mainly focused on the Government's implementation of Presidential Decree No. 129, which former President Karzai had issued on 16 February 2013 in response to a Government fact-finding delegation's report that had validated UNAMA findings in its January 2013 report. This decree ordered the National Directorate of Security, the Attorney General's Office, the Ministry of Interior, the Ministry of Justice and the Supreme Court to investigate allegations of torture, prosecute alleged perpetrators, release detainees and prisoners in arbitrary detention, increase access of defence lawyers and medical personnel to detainees to prevent torture and arbitrary detention, and ensure accountability, and report back to the President's Office every three months. UNAMA/OHCHR findings indicate that, despite the 2013 developments, torture and ill-treatment of conflict-related detainees persist in some detention facilities, with few allegations of torture investigated, prosecuted or subjected to disciplinary action. Measures taken by the Government, such as internal investigations and the establishment of a cadre of National Directorate of Security human rights officers are not robust enough to prevent and end torture. Presidential Decree No. 129 alone is not an effective deterrent to torture; greater accountability is needed to end impunity and bring perpetrators to justice.

33. The only prosecution, trial (in mid-April 2014) and subsequent imprisonment of perpetrators of torture known to UNAMA/OHCHR has been of two National Directorate of Security officers in the province of Uruzgan. In a few other cases, Directorate personnel who committed torture or ill-treatment were reassigned to other functions or simply had to pledge not to re-offend. No national police officials were found to have been investigated or prosecuted on allegations of torture or ill-treatment.

34. Defence lawyers have access to provincial National Directorate of Security detention facilities, but can usually access detainees only after the investigation phase has been concluded. The Legal Aid Department of the Ministry of Justice lacks capacity and cannot address the current shortfall of legal aid defence lawyers alone. Most medical personnel working in detention facilities lack independence as they report directly to the Directorate and the Ministry of Interior, and fear that they will face reprisals if they endorse findings of physical abuse or torture.

35. The Supreme Court has issued instructions to judges reminding them to reject confessions obtained through torture and to dismiss cases that rely solely on evidence thus obtained. However, these obligations are not respected in practice, and prosecutors or judges routinely disregard or dismiss allegations of forced confessions. These confessions constitute the primary basis for proving a case and justifying a conviction in court.

36. In response to the findings of the UNAMA/OHCHR report of 20 January 2013,[1] ISAF suspended transfers of detainees it had captured to 35 Afghan detention facilities and redesigned its detainee certification review process to include inspections, extended training and capacity-building of all national police and National Directorate of Security

[1] Available from www.unama.unmissions.org/LinkClick.aspx?fileticket=VsBL0S5b37o%3D&tabid=12254&language=en-US.

interrogators and detention staff on human rights principles and non-coercive interrogation techniques, and mentoring. In 2014, UNAMA/OHCHR did not document incidents in which detainees arrested by international forces were tortured following their transfer to an Afghan facility. UNAMA/OHCHR did, however, record incidents in which detainees were arrested by Afghan security forces in operation that had international military support, and were subsequently tortured by Afghan detaining authorities. The North Atlantic Treaty Organization (NATO) Resolute Support Mission, due to start in 2015 as a successor mission to ISAF, does not include a detention monitoring component. In 2014, the Government of Afghanistan continued to invest attention and resources into the development of the State party report to the Committee Against Torture. Between September 2013 and November 2014, the Ministry of Foreign Affairs hosted one conference at the provincial level and three at the national level to engage government officials from 13 institutions, including security, judiciary and civil society, in the reporting process. In November 2014, the Ministry of Foreign Affairs also released a compilation of written works on torture in Afghanistan by celebrated academics. In October 2014, President Ghani visited the Kabul central prison and directed authorities to continually monitor and report on the situation of detainees.

37. Five men convicted of armed robbery and gang rape in Paghman were executed on 8 October. Prior to their executions, the United Nations High Commissioner for Human Rights wrote to President Ghani, requesting him to stay the carrying out of the death sentences, in order to allow time for a judicial review to ensure that the rights to fair trial of the accused individuals had been upheld. There was no question this had been an appalling crime. However, the High Commissioner expressed grave concerns that the legal process that had led to the convictions had failed to comply with national and international fair trial standards. UNAMA/OHCHR had received credible allegations that the convicted men had been ill-treated while in pretrial detention, denied adequate legal representation and, during the legal proceedings, the legal basis for the prosecution had been unclear. The High Commissioner urged the Government to establish a moratorium on executions and to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. In mid-October, President Ghani announced that the Government would review all the cases where the convict had been sentenced to death by the courts.

IV. Violence against women and promotion of women's rights

38. The prevalence of violence against women and a corresponding lack of accountability continued to be of serious concern during 2014. Insecurity, cultural beliefs and victims' fears of retaliation or stigmatization led to continued underreporting of incidents of violence against women, a major obstacle to a comprehensive analysis of trends.

39. Building on the findings and recommendations of the December 2013 UNAMA/OHCHR report entitled "A Way to Go: An Update on Implementation of the Law on the Elimination of Violence against Women in Afghanistan",[2] UNAMA/OHCHR continued to monitor, report and advocate on issues related to violence against Afghan women and girls. From January to November 2014, field teams documented 302 alleged cases of violence against women across the country, including 91 murders, 29 cases of forced immolation, 27 rapes, 135 cases of battery and laceration, and 52 forced and 21

[2] Available from http://unama.unmissions.org/Portals/UNAMA/Documents/UNAMA%20REPORT%20on%20EVAW%20LAW_8%20December%202013.pdf.

underage marriages. UNAMA/OHCHR urged the authorities to comply with the country's international and national obligations and provided technical support to members of the provincial commissions on the elimination of violence against women. Overall, the functioning of such commissions varies widely across the country. In many provinces, the mechanism faces challenges such as absenteeism, lack of technical expertise and the reluctance of the relevant authorities to convene them. Some progress was observed, with the prosecution units on the elimination of violence against women under the Attorney General's Office increasing their field presence from 8 to 18 provinces in 2014.

40. On 1 March 2014, the Government released its first report on implementation of the 2009 Law on the Elimination of Violence against Women, based on data it had gathered from 32 of the country's 34 provinces between March 2012 and March 2013. A second report was released on 24 November 2014, covering the period March 2013 to March 2014, based on data from all 34 provinces. With the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), UNAMA/OHCHR provided significant support to the Government in preparation of the reports. The first report recorded 4,505 incidents of violence against women, of which 3,396 constituted acts that could be prosecuted under the Law on the Elimination of Violence against Women. The second report indicated a 20 per cent increase in recorded incidents of violence against women (5,406 incidents) of which 3,715 constituted acts that could be prosecuted under the law. Both reports noted that mediation of cases of violence against women, including for serious crimes, was prevalent. The second report also found that very few cases involving violence against women were resolved through a criminal justice process that resulted in sanctions against perpetrators or acquittals. The reports proposed a range of remedial actions, including establishing a comprehensive database, strengthening national and provincial commissions on the elimination of violence against women, and increasing awareness of the related Law, which are consistent with UNAMA/OHCHR recommendations.

41. The Government initiated discussions on the use of mediation of cases of violence against women by State institutions. With the technical support of UNAMA/OHCHR, the Ministry of Women's Affairs and the Ministry of Finance held a national conference on 16 September 2014, which resulted in the establishment of a drafting committee charged with drawing up detailed instructions outlining the methodology and criteria, including what specific acts can be mediated, as well as minimum requirements and follow-up mechanisms to regulate mediation. As mediation continues to be widespread, the development of standardized guidelines is imperative to ensure that mediation processes and outcomes are used only for specific offences and not for serious crimes and are fair, safe, voluntary, confidential, free from any form of intimidation or discrimination and in full respect of the rights and dignity of victims.

42. Over the course of 2014, the Ministry of Interior made significant progress in developing policies and directives aimed at enhancing protection of policewomen in the workplace. Serious concerns had been raised in 2013 about high levels of sexual violence and harassment, and the undermining of female police officers' authority by male officers in the national police. In January 2014, the Minister of Interior endorsed a strategy for the integration of women in the police force intended to create a protective environment for women employed in the national police. The strategy incorporated a comprehensive definition of sexual harassment and reinforced its prohibition. Moreover, on 10 March 2014, an interministerial commission was established and tasked with drafting an action plan to implement the strategy, to which UNAMA/OHCHR provided technical support. Adopted by the Minister of Interior on 13 August 2014, the final plan outlines measures to improve the participation, protection and professionalization of women in the national police. As a result of advocacy to strengthen accountability, the plan includes the establishment of an independent and effective complaints and monitoring unit to investigate misconduct and abuse. The swift implementation of the action plan across the country is

critical. The overall presence of policewomen in the national police remains very low: as at October 2014, women comprised approximately 1.5 per cent of the national police — 2,334 of a total force of over 153,000. President Ghani has declared addressing sexual harassment in Afghanistan as one of his priorities and, upon his request, UNAMA/OHCHR submitted a briefing note on this issue, proposing recommendations based on international standards and best practices.

43. In terms of legislative developments, the 2009 Law on the Elimination of Violence against Women remained enacted by presidential decree and was not brought back before Parliament for ratification for fear it would be rejected. As at December 2014, discussions were ongoing within the Ministry of Justice-led Criminal Law Reform Working Group (Penal Code reform subcommittee) to propose the incorporation of criminal provisions of the Law into the revised Penal Code, which would help consolidate the previous gains made under the Law.

44. Encouraging developments were observed regarding the participation of women in the 2014 Presidential and Provincial Council elections as voters, candidates, election staff and observers. During the two rounds of voting held in April and June, their participation as voters constituted 36 per cent and 38 per cent, respectively, in the face of intimidation, logistical constraints and deep-rooted conservative social norms discouraging women's role in public life. The number of women running for elections was unprecedented, representing 9 per cent of the overall candidates in the presidential race, and 11 per cent for provincial council elections. However, at final count, due to the 2013 amendments to the Electoral Law that reduced the number of seats reserved for female representatives in the Provincial Councils from 25 to 20 per cent, women won 97 seats out of 458 seats (21 per cent), which constituted a sharp decrease compared with the 132 seats out of 458 (29 per cent) they had won in the 2009 elections. With fewer women represented, concerns arise over their ability to effectively promote gender equality within the national political agenda.

45. To underscore the Government's commitment to the participation of women in political, peace and security processes, the national action plan on the implementation of Security Council Resolution 1325 (2000) was endorsed by a steering committee in October 2014. The Government of Afghanistan, in cooperation with civil society, submitted to the United Nations its second report on the implementation of the Beijing Declaration and Platform for Action in May 2014.[3] To mark the annual 16-day campaign of activism to end gender violence, held globally from 25 November to 10 December, UNAMA/OHCHR, in collaboration with other partners, supported outreach activities across the country, such as debates, radio programmes and workshops, to raise awareness on the imperative to act against violence perpetrated against women and girls.

V. Peace and reconciliation, including accountability and transitional justice

46. In 2014, UNAMA/OHCHR continued to support the Afghan People's Dialogue on Peace initiative. The project promotes a rights-based approach to peace and reconciliation efforts by enabling Afghans to express their views on prospects for peace, reconciliation, security, economic development, human rights, justice and the rule of law. The project has been implemented in two phases: phase I, from October to December 2011; and phase II, from April 2013 to December 2014. In line with the principle of Afghan leadership and

[3] Available from www.unwomen.org/~/media/headquarters/attachments/sections/csw/59/national_reviews/afghanistan_review_beijing20.ashx.

ownership of peacebuilding initiatives, UNAMA/OHCHR has played a facilitation role, supporting civil society to lead this inclusive, rights-centred process that enables the voices of Afghans to be heard and considered by the new Government and policymakers. As an integral part of the initiative, 34 provincial road maps have been completed and are being used an advocacy tool by local civil society groups.

47. On 10 June, UNAMA assisted Afghan civil society by coorganizing a press conference to launch the summary report of phase II of the Afghan People's Dialogue on Peace, entitled "Building the Foundations for an Inclusive Peace Process".[4] The 40-page report summarises the views of the 4,648 Afghan men, women and young people from all 34 provinces of the country who participated in phase II of the Dialogue. In the report, it is stated that disarming and disempowering local militias, tackling widespread corruption and impunity among the police and judiciary, resolving ethnic tensions, tribal disputes and factional conflicts that fuel broader armed conflict, respecting human rights and providing equitable development assistance and service delivery across the country were essential to achieving lasting peace. The report also contains a 10-point national road map for peace on the basis of these findings. On 12 October, the People's Dialogue steering committee sent an open letter to the Office of the President, requesting a discussion of the national road map for peace.

VI. Support to national institutions

Afghanistan Independent Human Rights Commission

48. On 28 January 2014, the findings of the five-yearly accreditation review of the Afghanistan Independent Human Rights Commission by the Subcommittee on Accreditation of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights were published, with a decision on its status deferred for one year. The decision was accompanied by a statement of concern regarding the selection and appointment process for Commissioners, the dependence of the Commission on international donor funding, and the disparity in the ratio of female to male staff members.

49. Since then, the Commission has made efforts to address the concerns raised. These include obtaining a presidential order to amend the selection and appointment process, in order to establish a transparent, participatory and pluralistic process more in line with the principles relating to the status of national institutions (Paris Principles); implementing a comprehensive gender policy to improve female representation of the staff; and obtaining the Government's commitment to increase its 2014 budget allocation to the Commission. The Commission was reviewed for re-accreditation by the Subcommittee on Accreditation from 27 to 31 October 2014. The outcome was pending at the time of writing. UNAMA/OHCHR urges the new Government to ensure the Commission's continued independence, credibility and effectiveness. UNAMA/OHCHR also reiterates its recommendation to publicly release the Commission's conflict-mapping report as a way of promoting peace and reconciliation.

50. The Commission, supported by the United Nations Development Programme and in consultation with UNAMA/OHCHR, developed a new five-year strategic action plan for

[4] Available from http://unama.unmissions.org/Portals/UNAMA/human%20rights/Eng_%20Report%20-%20Afghan%20Peoples%20Dialogues.pdf.

the period 2014-2019, which was published on 10 December 2014. The plan defines five strategic objectives: to encourage and empower government, individuals and civil society institutions to promote, protect and respect human rights; to lead the Afghan human rights movement and advocate for change; to monitor the Government's compliance with national and international human rights obligations; to defend and protect the rights of victims of human rights abuse; and to ensure the Commission's effectiveness and impact of its interventions. UNAMA/OHCHR remains committed to strengthening this critical national institution and supporting implementation of its strategic action plan.

51. On 20 August, the Commission released the report of its national inquiry into the causes and consequences of *Bacha Bazi* ("playing with boys"), a practice that involves the sexual exploitation and often the sexual enslavement of boys by men in positions of power in Afghanistan. The Commission interviewed perpetrators, victims, local elites and witnesses in 14 provinces across the country and called on the Government to put an end to this abuse by amending the law to specifically criminalize the practice, to address the culture of impunity and to identify and protect victims. The report blamed the practice on factors such as weak rule of law, corruption, poverty and the presence of illegal armed groups in the country. The Commission is currently drawing up a follow-up advocacy strategy and action plan that UNAMA/OHCHR will support.

VII. Cooperation with United Nations human rights mechanisms

52. The Working Group on the Universal Periodic Review held its eighteenth session from 27 January to 7 February 2014. The review of Afghanistan was held at the 2nd meeting, on 27 January 2014. At its 10th meeting, held on 31 January 2014, the Working Group adopted the report on Afghanistan. In its opening statement, the delegation of Afghanistan acknowledged the challenges that had slowed its progress in human rights, such as terrorism, extremism, narcotics and insecurity in some parts of the country. The delegation noted that women's rights and gender equality remained a top priority for the Government, highlighting the enactment of the Law on the Elimination of Violence against Women, the establishment of special prosecution offices for the elimination of violence against women, and the establishment of 16 protection centres/shelters for female victims of domestic violence; it also highlighted the Government's success in increasing access to education and improving health-care provision, and stressed that Afghanistan had become party to most of the core international human rights instruments.

53. In response, the issues raised by the Working Group related, inter alia, to the failure to respond effectively to increasing violence against women; the prevalence of arbitrary arrests and detention by the police, cases of torture and other ill-treatment in detention facilities; the human rights situation of internally displaced persons; the high percentage of employed children; and the considerable outstanding challenges with regard to the fragile security situation. There were 224 recommendations made by 89 States covering a wide range of human rights issues, of which the Government accepted 189, rejected 12 and noted 23 for further consideration. UNAMA/OHCHR will work with partners to assist the Government in its implementation of the accepted recommendations.

54. From 4 to 12 November, the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, conducted a mission to Afghanistan, during which she met with senior Government officials, the Chairperson of the Afghanistan Independent Human Rights Commission, representatives of civil society and the diplomatic community in Kabul, Herat and Jalalabad. In her public statement at the end of her visit, she noted that positive legislative and institutional developments had taken place since the visit of her predecessor in 2005. However, she urged state institutions to address — among others — the absence of comprehensive and coherent data collection on violence against

women and the lack of effective interpretation and implementation of laws protecting women and girls from violence, and to allocate adequate resources and support to shelters. The Special Rapporteur will present her final report to the Human Rights Council in June 2015.

VIII. Conclusion

55. **The human rights situation in Afghanistan has been negatively affected by the contested security, political and economic transitions. Anti-Government elements sought to exploit the uncertainty by increasing their offensives, resulting in more ground engagements and a rising toll in civilian casualties. The uncertainty also affected the economy, threatening sustainable development. At the London Conference on Afghanistan, held on 3 and 4 December 2014, the international community reaffirmed its commitment to the country's future, in line with priorities and previous funding pledges agreed upon at the Tokyo Conference on Afghanistan, held in July 2012, and delivered a strong message of political support to President Ghani's administration and his planned reforms. The formation of the Government of National Unity provides an opportunity to consolidate and expand human rights protections. For this to happen, there must be accountability for those who commit human rights violations.**

56. **The strong public statements by the new Government that emphasize the importance of human rights, especially women's rights, as part of an ambitious social reform agenda, are particularly welcome. UNAMA/OHCHR fully supports the Government's initiatives on combatting sexual harassment, women's empowerment, addressing concerns over internally displaced people, and focus on the rights of detainees. Also, for the first time in many years, there appears to be a possibility for substantive peace and reconciliation processes and transitional justice. Human rights must not be sacrificed and women must play a full and active role in any negotiations; both are critical if peace is to be sustainable. OHCHR and the wider United Nations system stand ready to play an active and steadfast role in supporting the country to embed human rights for all Afghans at this important time.**

IX. Recommendations

57. **The United Nations High Commissioner for Human Rights recommends the following:**

The Government of Afghanistan should:

(a) Take concrete measures to reduce civilian casualties from ground engagements by revising and strengthening tactical directives, rules of engagement and other procedures, ensuring the proper training and resourcing of all Afghan National Security Forces on civilian protection measures, mitigation and accountability, and ceasing to fire mortars, rockets and grenades into civilian-populated areas;

(b) Strengthen structures in the Government that track, mitigate and provide accountability for civilian casualties by pro-Government forces; investigate all allegations of violations of international humanitarian and human rights law and human rights abuses by Afghan National Security Forces and Pro-Government militias and allied forces; and prosecute and punish those found responsible as required under Afghan and international law;

(c) Continue to dedicate all necessary resources to enable the full implementation of the national strategy to counter improvised explosive devices; prioritize the further development of the capacity of Afghan National Security Forces to command, control and effectively conduct operations to counter and dispose of improvised explosive devices, including exploitation;

(d) Continue to disband and disarm all illegal militia and armed groups;

(e) Develop and implement detailed guidelines for police and prosecutors that outline the methodology, criteria, minimum requirements and follow-up mechanisms regulating mediation of registered incidents of violence against women;

(f) Put in place, within six months, a concrete plan covering the next two-year period to improve the status of the elimination of violence against women, including the measures recommended by the Committee on the Elimination of Discrimination against Women in July 2013;

(g) Build the capacity of government institutions that work on the implementation of the Law on the Elimination of Violence against Women, with training on the Law as be a mandatory element of the training curriculum of police and prosecutor's offices; and ensure that all aspects of violence against women are addressed through wider legislations and directives;

(h) Establish an independent oversight and accountability mechanism modelled on the national preventive mechanisms in the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(i) Fully implement Presidential Decree No. 129, particularly to ensure that perpetrators of torture are held accountable;

(j) Ensure that Afghan national police, National Directorate of Security, other institutions holding detainees, as well as prosecutors and courts investigate allegations of torture and ill-treatment promptly and independently and punish perpetrators; and ensure that prosecutors and courts dismiss evidence obtained through the use of torture and ill-treatment;

(k) Invite the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to visit Afghanistan to assist in providing a comprehensive response to preventing ill-treatment in detention facilities;

(l) Fully support the public release of the Afghanistan Independent Human Rights Commission's conflict-mapping report as a way of promoting peace and reconciliation;

(m) Establish a moratorium on executions and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty.

58. **Anti-Government elements should:**

(a) Cease firing mortars, rockets and grenades into civilian-populated areas;

(b) Cease the indiscriminate and disproportionate use of improvised explosive devices, particularly in all areas frequented by civilians, and stop using illegal pressure-plate devices;

(c) Cease the deliberate targeting and killing of civilians and withdraw orders that authorize attacks on and killings of civilians, particularly religious personnel, judicial authorities and civilian government workers;

(d) Cease all attacks from and in civilian locations, including public roads, markets, restaurants, civilian homes, consulates, civilian government offices, including courthouses;

(e) Apply a definition of "civilian(s)" that is consistent with international humanitarian law and prevent civilian casualties through compliance with international humanitarian law, including the principles of distinction, proportionality and precautions in the context of attacks;

(f) Enforce codes of conduct, instructions and directives ordering members to prevent and avoid civilian casualties and hold accountable those members who target, kill and injure civilians;

(g) Cease practices carried out by parallel judicial structures that impose unlawful punishments such as killing, amputation, mutilation and beatings.

59. **The international community should:**

(a) Consider increasing support to the Government for the implementation of programmes on the elimination of violence against women, including implementation of the recommendations the Committee on the Elimination of Discrimination against Women made in July 2013; and implement a joint monitoring framework that includes specific indicators to enable increased funding to be linked to measurable results on the elimination of violence against women;

(b) Continue to support the Afghanistan Independent Human Rights Commission and speak out against any interference, security threat or political pressure that might compromise its independence or effectiveness;

(c) Maintain support to Afghan National Security Forces to ensure they are sufficiently resourced, trained and equipped to command, control and effectively conduct operations to counter and dispose of improvised explosive devices, including exploitation, in 2015/16;

(d) Continue efforts to mark and clear (including surface and subsurface clearance) unexploded ordnance from all international military bases and firing ranges that have closed since the onset of International Security Assistance Force operations;

(e) Establish a mechanism within the North Atlantic Treaty Organization Resolute Support Mission and Afghan National Security Forces that communicates the suspected presence of unexploded ordnance from aerial and ground operations to appropriate authorities, and ensure the marking and clearance of suspect hazardous areas;

(f) Continue to conduct post-operation reviews and investigations in cooperation with the Government where civilian casualties have occurred in operations that involved international security or intelligence forces, and continue to take appropriate steps to ensure accountability and compensation, as well as better operational practice;

(g) Ensure that any assistance to Afghan institutions implicated in torture or ill-treatment produces concrete and measurable results to improve oversight and accountability, particularly in preventing, prohibiting and punishing the use of torture.